SENATE—*Thursday, December 10, 1987*

(Legislative day of Tuesday, December 8, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteousness exalteth a nation: but sin is a reproach to any people.—Proverbs 14:35.

Eternal God, perfect in truth and justice and righteousness, history records that no great nation or empire has been defeated by force from without before it had been destroyed by moral decay from within. Whether the great Roman Empire with its deified Emperor and powerful Senate—and its legions deployed throughout the known world—or a tiny city state like Sodom, moral rot was their destruction. Righteous Lord, we profess to be the richest, most powerful nation in the world, with mighty military strength. Yet, casual sex, abortion, pornography, and chemical addiction and dependency, greed and the lust for power infect our culture epidemically. Moral and spiritual anarchy weaken us nationally despite our unprecedented wealth and military might. Gracious Father, help us to see that there is no substitute for truth, for moral and spiritual health, for justice. Save us from the relativism which abandons the absolutes which guarantee strength and peace. We pray this in the name of Jesus, the Man of Peace and lover of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 10, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, S. 1920, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1920) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress).

The Senate resumed consideration of the bill.

MORNING BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for not to exceed 5 minutes, as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LET'S CHANGE THE INF TO THE VERIFICATION ADVANCEMENT AGREEMENT

Mr. PROXMIRE. Mr. President, my nomination for the most unjustified rap of the year is the criticism of the INF Treaty because it is alleged to leave Western Europe open to conventional attack by the U.S.S.R. This Senator strongly favors the INF Treaty. I will support its ratification with enthusiasm. I would acknowledge, however, that it has no significant effect in reducing medium-range or short-range nuclear missiles in Europe.

To listen to the conservative critics of this agreement, one would believe that we are leaving NATO without nuclear defenses. They're wrong. We are not. Oh, sure, we are removing nuclear weapons that could deliver a devastating punch to Soviet troops if those troops should achieve blitzkrieg breakthrough in a sudden invasion of Western Europe. The argument runs that, absent a credible local nuclear response, the vast superiority of Soviet tanks, helicopters, artillery, and troops could push through Western Europe the way Hitler did in a few days in 1940. In a television interview on December 4, President Reagan contended that tactical nuclear weapons still remaining in Europe would stop such a Soviet blitzkrieg. The President may or may not have been right. Tactical nuclear weapons undoubtedly could be an important part of the defense of Western Europe. But these mininukes have far less power and punch than intermediate- and short-term nuclear weapons. Also, they have to be delivered "in close" in Western Europe where they would destroy not only the cities they were presumably defending, but also the people of Western Europe they were designed to protect.

Does that mean the removal of medium-range missiles from Western Europe leaves this vital area of freedom defenseless? Mr. President, a story in the December 6 New York Times by Richard Halloran does not purport to deal with the INF Treaty, but it provides the strongest argument this Senator has read that after the INF Treaty becomes law and intermediate missiles have been removed, Western Europe will continue to have as strong a nuclear response to deliver as ever. How can this be? Here's how: The fact is, Mr. President, that this country has about one-half of our entire nuclear deterrent, more than 5,000 nuclear warheads, based on submarines. Some of those submarines carry cruise missiles armed with nuclear warheads. It is the ground-launched cruise missiles along with the Pershing II medium-range missiles that are now banned by the INF Treaty which President Reagan and Secretary Gorbachev signed on December 8.

The submarine-based cruise missiles can move right in and take over the precise mission that the land-based Pershings were to perform. They generally have a medium range—that is 1,500 miles. That can easily be extended to 3,000 miles. They have the advantage over the land-based missiles that the submarine version is both invisible and mobile. With submarines plying the eastern Atlantic, the Baltic Sea, the Mediterranean as well as the Pacific, these NATO submarines can perform the same mission as the missile removed by the INF agreement in response to a Soviet invasion of Western Europe. There is a difference. The difference is that the submarine-based nuclear missiles can strike with relative impunity, because they are invisible. They are also very hard to track. Of course, the Soviets, too, have their submarine-based cruise missiles that can easily reach Western Europe.

So what does the INF Treaty accomplish? It accomplished a great deal, but the effective elimination of medium-range nuclear weapons from Western Europe is not one of its achievements. Nuclear weapons will still be there. They will be on both sides. They will continue to serve their

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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deterrent purpose. They will keep the peace. They will keep the peace by posing the terrible threat of mutual annihilation if a superpower war should break out in Europe.

So let me repeat. What did the INF Treaty accomplish? It accomplished an extraordinary agreement on verification. It achieves far and away the most searching and thorough on-the-spot inspection that has ever been negotiated. The verification goes even further. More important than the on-the-spot verification is an agreement to open up more than 100 nuclear missile production and deployment sites for satellite inspection—not only in all of Eastern Europe and the Soviet Union but also in Western Europe and the United States. Since there is no reduction of intermediate nuclear weapons, the verification in this case would ordinarily mean little. But as a precedent to be applied for the major reductions on both sides of strategic nuclear weapons and especially to verify the reduction of conventional arms, it represents excellent progress. In fact, Jonathon Schell, in an article in the December 6 Washington Post has said that the treaty might well be renamed the "On-Site Inspection Agreement." Schell is almost right. Satellite inspection is so much more important than onsite inspection that it should be renamed simply "The Verification Advancement Agreement."

Mr. President, I ask unanimous consent that the article by Richard Halloran in the December 6 New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 6, 1987]

CRUISE MISSILES: A WIDER RANGE AND A NARROWER AIM

(By Richard Halloran)

WASHINGTON.—During a voyage off the Soviet Union's east coast last year, the battleship New Jersey and other ships simulated launching more than 300 cruise missiles at Soviet targets. With computers and crew drills, the battle group pretended to fire at the aircraft carrier Minsk and 26 other warships, at Soviet ports and airfields on the Sea of Japan, the Sea of Okhotsk and the Bering Sea, and at command posts, communication centers and munitions depots well inland.

Officers in the New Jersey battle group reported to Washington that they believed the Russians never detected their ships and, had the launchings been real, they would never have known what had hit them.

Cruise missiles, none of which have yet been fired in anger, are the most lethal of a new and potentially revolutionary category of arms called standoff weapons. Basically, standoff weapons can be slung at a target from so far away that the launch platform, which could be a submarine, ship, airplane or ground base, is not exposed to fire from the target.

It is the ground-launched version of the cruise missile, along with the Pershing II medium-range ballistic missile, that would be banned under the arms control treaty President Reagan and the Soviet leader, Mikhail S. Gorbachev, are scheduled to sign Tuesday.

But ground-launched types are but a small portion of the American arsenal of cruise missiles. Sea-based cruise missiles with conventional, high-explosive war-heads are aboard American warships near the Persian Gulf today and could be used to destroy refineries, naval bases or military command centers in Iran. If the treaty takes effect, B-52 bombers carrying air-launched cruise missiles with nuclear warheads may go on alert in the United States to take up the deterrent role now played by ground-launched missiles in Western Europe.

The Soviet Union has sea-launched cruise missiles and is building air-launched versions, but they are not believed to be as accurate or consistent as those of the United States. The Russians have concentrated more on building and improving ballistic missiles of all ranges.

However launched, the Pentagon's cruise missile is a $2-million flying torpedo with brains. It is powered by a small engine, its 20-foot frame kept aloft with stubby wings, and it finds its way with advanced navigation, keen sensors and a map programmed into its computer. Generally, these missiles can be fired 1,500 miles from a target and strike within 20 to 30 feet of it. The Navy has scored 64 hits in 76 test shots.

A cruise missile fired from a submarine off the coast of Newfoundland in Canada, for instance, could be programmed to cross the beach just north of Cape Ann, Mass., curve west to slip over the Berkshire Mountains, turn south along the Hudson River, pop up over the Palisades, glide between the goal posts at Giants Stadium in the Meadowlands and explode over the 50 yard line. The flight would take about an hour.

Because they fly just 30 or 40 feet above the ground, they are extremely difficult to track by radar. At 550 miles an hour, they move in and out of anti-aircraft missile range before gunners can fire at them. They can be instructed to attack from any direction. In short, defenses against cruise missiles are largely nonexistent.

FLYING FARTHER, HITTING CLOSER

Under development are cruise missiles with a 3,000-mile range, double that of today's missiles; at least one has been fired from a submarine, though it is expected to take more than five years to produce operational versions.

A still more important development is a laser guidance system that will enable a missile to hit within inches of the target. The missile that can thread the goal posts today would be able to hit the crossbar tomorrow. That precision is not especially important for cruise missiles armed with nuclear warheads, but pinpoint accuracy can make a missile with a nonnuclear warhead effective against many targets.

The Air Force has so far stuck with nuclear warheads. But the Navy is concentrating on cruise missiles with conventional warheads. This will most likely complicate future arms control negotiations, because only a specialist up close can tell the difference between a nuclear and a conventional cruise missile.

The Navy has been arming ships and submarines with Tomahawk cruise missiles since 1983; it began deploying them with conventional warheads two years later. By the end of the 1987 fiscal year Sept. 30, the Navy had bought 338 cruise missiles with nuclear warheads and almost 700 with conventional warheads. In the current fiscal year, the Navy plans to buy only 19 nuclear cruise missiles but 456 carrying high explosives.

The reason? Navy officers say the nuclear missiles aren't useful except as a deterrent, while those with high-explosive warheads may well be needed. One submarine armed with Tomahawk cruise missiles, they say, could have mounted the 1986 raid on Libya, which took dozens of Navy and Air Force planes, one of which was shot down.

"Cruise missiles," said one officer, "don't get pilots killed or captured."

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FOWLER. Mr. President, I ask unanimous consent that I may be permitted to speak for 10 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

The Chair recognizes the Senator from Georgia.

THE INF TREATY

Mr. FOWLER. Mr. President, the signing of the INF Treaty by President Reagan and General Secretary Gorbachev is a small but significant step in advancing America's national security and the security of the people of the world. It is a small but, I believe, significant step back from the nuclear abyss.

At the same time, what is perhaps most important about the signing of the INF Treaty is the challenge and the opportunity that it presents for the future. It is a challenge in that the weapons to be destroyed under its provisions represent only a tiny fraction of the strategic and conventional arsenals in the world. And, indeed, by effectively raising the nuclear threshold through the elimination of one class of nuclear weapons, this agreement makes it even more imperative that the conventional force imbalance in central Europe be addressed.

The INF Treaty also represents a golden opportunity for achieving even more important security enhancing agreements in such areas as long-range strategic forces—that is, the START talks—chemical weapons and conventional forces.

The INF Treaty negotiated by President Reagan establishes a number of important precedents that are essential to achieving success in these other fields. For the very first time, Mr. President, the Soviet Union has accepted intrusive onsite inspections to

verify its compliance with the provisions of the treaty. Also, the language on compliance is more detailed and less open to conflicting interpretations than ever before.

Without adequate verification, neither the American people nor the United States Senate could accept an arms control agreement with the Soviet Union, no matter how impressive its other provisions. Second, the INF Treaty actually produces a reduction in weapons, not a controlled increase. And, third, this agreement deals with existing force imbalances by requiring far greater reductions on the part of the country which had the favorable balance—that is the Soviet Union—rather than requiring proportionate reductions by each side.

Thus, in this case—and all of my fellow Americans ought to know this—the Soviets are to destroy 1,752 missiles; the United States, 859.

I want to offer my congratulations to President Reagan and his administration, who successfully concluded this agreement. We also ought to congratulate former President Carter, who forged the bipartisan consensus behind the so-called policy of deploying United States INF forces in Europe as a counter to widespread Soviet deployment of such weapons, while pursuing negotiations to eliminate these weapons. And we also ought to congratulate the American people, who stood behind the President and the Congress; and congratulate our allies, who stood behind this policy, and sometimes at great political costs.

While I am very encouraged by the signing of this treaty, as I have already pointed out there are several cautions in order.

First, the weapons which would be eliminated by the INF Treaty are a very small part of the nuclear arsenals of the United States and the Soviet Union. More significant agreements on long-range or space-based nuclear weapons are yet to come.

Second, raising the nuclear threshold does place a greater importance on deterrence by conventional force readiness. Most especially, this is a challenge to our NATO allies to improve their conventional capabilities.

As 1 of 100 U.S. Senators, I do look forward to fulfilling my constitutional duty to thoroughly and carefully review the provisions of the INF Treaty and the negotiating record. We have a duty to make sure that any treaty we approve is verifiable and furthers the security interests of the United States of America.

But let me make it clear that from what I have seen to date, the critics of this treaty have the burden of proof in demonstrating why an agreement which requires the Soviet Union to surrender a 2-to-1 advantage in a whole category of nuclear weapons, which establishes effective procedures for verification and which is supported by our European allies, is not in the best interests of the United States of America.

Last, Mr. President, my only regret is that as the General Secretary Gorbachev and the Soviet leadership leave the United States today, they were unable to leave the city of Washington and get out into our country and see a little bit of the character of the American people. I wish that Secretary Gorbachev had been able to go to individual States, visit smaller communities, go into a real church of worship and see the number of people who were praying for him and President Reagan, to see the number of our fellow citizens who are praying for Christians and Jews within the Soviet Union, praying they might have an opportunity to worship as they please and travel as they please. Then he would understand that the hopes of Americans are for a true and lasting peace based on respect for differences in our systems, but based also on a belief that we can work out our differences. Yes, that can happen if the American people and the people of the Soviet Union are allowed to face those differences honestly, and across the table rather than across the barrel of a gun.

In short, Mr. President, I would have liked Mr. Gorbachev to have seen that the national strength of this country is not only in missile silos but in grain silos. Mr. Gorbachev looked into the bleary eyes of our arms negotiators. I wish he had looked into the clear eyes of men and women who work for a living in this country, who invest, who save for the future—and who want only for their children, that they may live in a world free from the threat of a nuclear holocaust.

The national strength of this country is not only in our defense systems, as important as those may be. The national strength of our country is in the character of the men and women who work to feed us, to clothe us, to raise our families. They make up the American character of which I am so proud.

Come back soon, Mr. Gorbachev, and see the real America. We think you will like what you see. We know that you will be impressed by the determination behind our character. Only then will you see and have a true understanding of what we in America describe as the American spirit and the American ethic.

I thank you, Mr. President.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes on a separate subject.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota is recognized for 5 minutes.

THE ROLE OF THE SENATE IN TREATY RATIFICATION

Mr. PRESSLER. Mr. President, in the limited time available to me this morning, I would like to summarize the steps the Senate must take regarding the INF Treaty. I am indebted to the experts of the the Congressional Research Service from whose study, "Treaties and Other International Agreements: The Role of the U.S. Senate," I will quote liberally. I believe the Senate has an important and positive role to play in treaty ratification, through the consideration of amendments, reservations, or some other conditions. The Senate has a very important constitutional role that is somewhat misunderstood in some circles. It is one of the differences between parliamentary systems and the U.S. system of government wherein a treaty is signed by our Executive but does not become effective until its ratification is approved by the Senate.

Senate procedure is governed by rule 30 of the Senate rules. The treaty is transmitted to the Senate after the President has signed it. Indeed, Senators have not even seen the negotiating record at that point.

The treaty then is referred to the Senate Foreign Relations Committee. However, at least three Senate committees will hold hearings and make recommendations on this particular treaty: the Committee on Intelligence will make recommendations, the Armed Services Committee will make recommendations, and, finally, the Foreign Relations Committee will consider the recommendations of those committees as well as possible conditions on the treaty and other information before sending the treaty to the Senate floor.

Under this procedure, it probably will take until April or May before the treaty reaches the Senate floor. After it reaches the Senate floor, unlimited debate may occur. So it may be late May before the U.S. Senate actually ratifies this INF Treaty.

(1) PRESIDENTIAL SUBMISSION

The Secretary of State formally submits treaties to the President for transmittal to the Senate. A considerable time may elapse between signature and submission to the Senate, and on rare occasions an international

agreement concluded as a treaty may never be submitted to the Senate at all and thus never enter into force. When transmitted to the Senate, treaties are accompanied by a Presidential message consisting of the text of the treaty, a letter of transmittal requesting the advice and consent of the Senate, and the earlier letter of submittal of the Secretary of State which usually contains a detailed description and analysis of the treaty.

(2) SENATE RECEIPT AND REFERRAL

Senate procedure is governed by rule 30 of the Senate rules, although the full requirements of this rule are seldom insisted upon. The treaty is transmitted by the Parliamentarian to the executive clerk, who assigns it a message number. The majority leader then obtains the unanimous consent of the Senate for the removal of the injunction of secrecy and for the treaty to be considered as having been read the first time. A treaty, regardless of its subject matter, is then referred by the Presiding Officer to the Foreign Relations Committee in accordance with rule 25 of the Senate rules. Rule 25 makes an exception only for reciprocal trade agreements. At this point the treaty text is printed and made available to the public.

(3) SENATE FOREIGN RELATIONS COMMITTEE ACTION

Treaties are placed on the committee calendar and remain there until the committee takes action to report them to the full Senate. While it is committee practice to allow a treaty to remain pending long enough to receive study and comments from the public, the committee usually considers a treaty within a year or two, holding a hearing and preparing a written report.

The predominant pattern is for the committee to recommend Senate advice and consent without conditions. The committee usually votes to report a treaty with a proposed resolution of ratification. However, the committee may vote to recommend that the Senate approve treaties subject to conditions. The main categories of conditions might be described in the following way:

Amendments propose changes in the text of a treaty and require the consent of the other party or parties;

Reservations change U.S. obligations without necessarily changing the text and require the acceptance of the other party;

Understandings are interpretive statements that clarify or elaborate provisions but do not alter them;

Declarations are statements expressing the Senate's position or opinion on matters relating to issues raised by the treaty rather than to specific provisions; and

Provisos relate to issues of U.S. law or procedure and are not intended to be included in the instruments of ratification, deposited or exchanged with other countries.

Proposed conditions are usually incorporated as individual provisions in the resolution of ratification.

(4) ACTION BY THE SENATE

After a treaty is reported by the Foreign Relations Committee, it is placed on the Senate's Executive Calendar and the majority leader undertakes to arrange for the Senate to consider it. With very few exceptions in this century, the majority leader has obtained unanimous consent to abbreviate the procedures of rule 30; the Senate then proceeds directly to the consideration of the resolution of ratification as reported by the Foreign Relations Committee.

The following procedures, which were utilized for consideration of the Versailles and Panama Canal Treaties, are based on rule 30.

Consideration begins by the Senate as in Committee of the Whole. The treaty is read and considered for amendment article by article. After each article is read, committee amendments are considered first. After the last article or accompanying document has been considered, Senators may offer amendments to any of the articles.

The proceedings are reported from the Senate as in Committee of the Whole to the Senate sitting as the Senate. Because the previous action was by the Senate sitting as in a committee, any amendments agreed to must be submitted to a vote by the Senate.

The Senate then considers the resolution of ratification, which incorporates any amendments that the Senate has agreed to propose. Senators may then offer reservations, understandings, and other statements that may affect the treaty or its interpretation but do not change its language.

Finally, the Senate votes on the resolution, which may contain both amendments to the treaty and amendments to the proposed resolution. Or a Senator may offer a substitute amendment, proposing that the Senate withhold its advice and consent, or offer a motion to recommit the resolution to the Foreign Relations Committee. The final vote on the resolution of ratification requires a two-thirds majority of the Senators present for approval; votes on amendments, motions, and procedures are by simple majority.

(5) RETURN TO COMMITTEE

Treaties reported by the committee but neither approved nor formally returned to the President by the Senate are automatically returned to the committee calendar at the end of a Congress; the committee must report them out again in order for the Senate to consider them.

(6) RETURN OR WITHDRAWAL

Treaties may be returned to the President without favorable advice and consent in a number of ways. Usually the Foreign Relations Committee reports and the Senate passes a simple resolution directing the Secretary of the Senate to return a particular treaty or treaties to the President. Or the President may ask for the return of a treaty or render it moot by making clear that he will not ratify it even if approved by the Senate.

Subsequent to Senate action, the President ratifies the treaty, if he agrees with any conditions the Senate has imposed. Or he may resubmit it to the Senate or renegotiate it with the other treaty signatory.

The final vote on the resolution of ratification requires a two-thirds majority of the Senators present for approval. Votes on amendments, motions, and procedures are by a simple majority. Treaties reported by the committee but neither approved nor formally returned to the President by the Senate are automatically returned to the Foreign Relations Committee calendar at the end of a Congress. The committee must report them out again in order for consent to reconsider them.

Mr. President, I think it is very appropriate for the American people to understand this lengthy procedure that we will be entering. The Senate does have a treaty veto in the sense that these procedures could lead to treaty renegotiaiton. The Senate has used its veto sparingly but often enough to demonstrate its potency. Since a rejection of the Versailles Treaty, the Senate has formally rejected three treaties. It has rejected two since the Second World War, the optional protocol concerning the compulsory settlement of disputes for the 1958 Law of the Sea Convention in 1960 and the Montreal Aviation Protocols in 1983, but in both these cases motions to reconsider were entered and the treaties formally remain pending.

Mr. President, once again I would like to express my gratitude to the CRS personnel whose treaty procedure study I have cited this morning.

Mr. President, I yield the floor and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

The Senate continued with the consideration of the bill (S. 1920).

AMENDMENT NO. 1254

Mr. BYRD. Mr. President, I ask that the amendment at the desk which is the leadership amendment be called up.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, and others, proposes an amendment numbered 1254.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment (No. 1254), is printed in the RECORD of December 9, 1987, beginning at page 34465.

Mr. BYRD. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The modification is printed as follows:

Section 8105(a) is modified to read as appears on the following pages:

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on acreage devoted to conservation uses under this paragraph.".

(e) PAYMENT LIMITATION.—Section 1001(2)(B) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)) is amended—

(1) by striking out "and" at the end of clause (v);

(2) by striking out the period at the end of clause (vi) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(vii) any base diversion payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(f)(9), 105C(f)(9), 103A(f)(8), or 101A(f)(8), respectively, of the Agricultural Act of 1949.".

SEC. 8105. ACREAGE LIMITATION PROGRAM FOR FEED GRAINS.

(a) IN GENERAL.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(1)) is amended—

(1) in subparagraph (A)(i), by striking out "subparagraphs (B) through (D)" and inserting in lieu thereof "this paragraph";

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) In the case of each of the 1988 and 1989 crops of feed grains, if the Secretary provides for an acreage limitation program (as described in paragraph (2)), the Secretary shall provide for a reduction of not more than 5 percent, in addition to the reduction permitted under subparagraph (C), in the quantity of acreage that may be planted to feed grains for harvest on a farm. The Secretary shall permit all or any part of such additional reduced acreage to be devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. The Secretary shall provide for the protection of the feed grain crop acreage base of a farm for any such acreage devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. In the case of the 1989 crop of feed grains, the Secretary may waive the application of this subparagraph if the Secretary estimates that (i) such waiver is necessary in order to maintain adequate supplies of feed grains, or (ii) the quantity of soybeans on hand in the United States on the first day of the 1989 marketing year for that crop (not including any quantity of soybeans of that crop) will be in excess of 425 million bushels.".

"(E) If the Secretary waives the provision of subparagraph (D) in accordance with clause (D)(ii), the Secretary shall provide for a reduction of not more than 2.5 percent in addition to the reduction permitted under subparagraph (C) in the quantity of acreage that may be planted to feed grains for harvest on a farm.".

Sections 9005 through 9015 are modified to read as appears on the following pages:

SEC. 9005. SALE OF RURAL DEVELOPMENT NOTES.

(a) Sales Required.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of $1,147,000,000 from such sales during fiscal year 1989.

(b) NONRECOURSE SALES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) CONTRACT PROVISIONS.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

(d) ELIGIBILITY TO PURCHASE NOTES.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

(e) LOAN SERVICING.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

SEC. 9006. SALE OF RURAL HOUSING LOANS.

(a) REQUIRED SALES TO PUBLIC.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of $1,590,000,000 in fiscal year 1988, and $2,350,000,000 in fiscal year 1989 from the proceeds of such sales.

(b) PROCEDURES AND TERMS OF SALES.—

(1) ESTABLISHMENT OF GUIDELINES.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) REPORTS TO CONGRESS.—

(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

(2) REPORTS BY SECRETARY.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

(d) RELATION TO OTHER LAW.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

SEC. 9007. SALE OF EXPORT-IMPORT BANK LOANS.

Section 16 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended to read as follows:

"SEC. 16. SALE OF BANK LOANS.

"(a) REQUIRED SALES TO PUBLIC.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of $500,000,000 in fiscal year 1988 and $500,000,000 in fiscal year 1989 from the proceeds of such sales.

"(b) PROCEDURES AND TERMS OF SALES.—

"(1) ESTABLISHMENT OF GUIDELINES.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and term applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) REPORTS TO CONGRESS.—

"(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

"(2) REPORTS BY BANK.—The Board of Directors shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

"(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

"(d) SECURITIES LAWS NOT APPLICABLE TO SALES.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.".

SEC. 9010. SALE OF COMMUNITY DEVELOPMENT LOANS.

The Secretary of Housing and Urban Development, under such terms as the Secretary shall prescribe, shall sell Community Development loans in such amounts as to realize net proceeds to the Government of $120,000,000 in fiscal year 1988 and $50,000,000 in fiscal year 1989.

SEC. 9011. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 is amended by striking out "$314,000,000" and inserting in lieu thereof "$414,000,000".

SEC. 9012. SALE OF BUREAU OF RECLAMATION LOANS.

The Secretary of the Interior, under such terms as the Secretary shall prescribe, shall sell Bureau of Reclamation loans made pursuant to the Distribution System Loans Act, as amended (43 U.S.C. 421a-421d), the Small Reclamation Projects Act, as amended (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act, as amended (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Government of $130,000,000 in fiscal year 1988. In the conduct of such sales the Secretary is authorized and directed to take such actions as he deems appropriate to accommodate, effectuate and otherwise protect the rights and preserve the obligation so the United States and the borrowers under the contracts executed to provide for repayment of such loans.

SEC. 9013. SALE OF MEDICAL FACILITIES LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Medical Facilities loans in such amounts as to realize net proceeds to the Government of $40,000,000 in fiscal year 1988.

SEC. 9014. SALE OF BUREAU OF HEALTH MAINTENANCE LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Health Maintenance loans in such amounts as to realize net proceeds to the Government of $20,000,000 in fiscal year 1988.

SEC. 9015. PUBLIC FACILITIES LOAN SALES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall take such actions as may be necessary to ensure that loans made pursuant to title II of the Housing Amendments of 1955 are sold to the public in amount sufficient to provide a net reduction in outlays of $120,000,000 during fiscal year 1988, and $50,000,000 during fiscal year 1989.

(b) PROCEDURES AND TERMS OF SALES.—The Secretary of Housing and Urban Development shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kinds of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(c) REPORTS TO CONGRESS.—The Secretary of Housing and Urban Development shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this subsection not later than 60 days after the date of enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I shall alert Senators that there probably will be a rollcall vote between 10:30 and 11 o'clock a.m. today.

We have two Senators—at least two Senators—meeting with Mrs. Gorbachev, and that vote should occur before 11 o'clock, so as to accommodate those two, and I would like for it to begin no later than 10:30.

We are presently waiting on a Senator whose name I shall not state here, but he knows that we are waiting on him, and I think he should come to the floor; because, otherwise, I am just

going to make this motion, yield back the time, and we will vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is it in order to move to waive the Budget Act prior to the yielding back of time on the amendment that is pending?

The PRESIDING OFFICER. The Chair will state the time would have to be yielded back prior to the consideration of the motion.

Mr. BYRD. I yield back the time on my side.

Mr. DOMENICI. I yield back the time on the leadership amendment on our side.

The PRESIDING OFFICER. All time is yielded back.

Mr. BYRD. Mr. President, I send to the desk a motion.

The PRESIDING OFFICER. The clerk will report the motion of the majority leader.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] moves that sections 310(d), 310(g), and 311, and 305(b) with regard to germaneness, of the Congressional Budget Act, as well as section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 be waived for the consideration of an amendment to be offered by the Majority Leader on behalf of the Leadership, an amendment to the leadership agreement to be offered by the Senator from Kansas [Mrs. KASSEBAUM], an amendment and a motion to recommit with instructions to be offered by the Senator from Texas [Mr. GRAMM], and, upon the adoption of any one of them, for the provisions of the adopted amendment included in the conference report on H.R. 3545.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, will the leader yield for a question?

Mr. BYRD. Mr. President, I yield myself time for accommodating Senators.

Mr. EXON. Mr. President, I have been listening to the motion just proposed by the majority leader. I do not think I have any real problems with it, but for clarification let me say that the majority leader indicated that amendments would be in order by the Senator from Kansas and the Senator from Texas. There will be other amendments that might be offered on subjects not related directly to the message that is intended with the amendments offered by the Senator from Kansas and the Senator from Texas.

The motion that the majority leader just made will not preclude other amendments from being offered on a reconciliation package, will it?

Mr. BYRD. It will not preclude other amendments being offered and this motion will require 60 votes.

Mr. EXON. If the Senator from Nebraska chooses to vote in support of the waiver of the Budget Act, the Senator from Nebraska will have an opportunity to offer amendments or an amendment as we proceed before we have any final vote on the leadership package, is that correct?

Mr. BYRD. He will have an opportunity to offer amendments. He may have to run the same gauntlet that this motion has to run anent the getting of the 60 votes depending upon the nature of his amendment.

Mr. EXON. I thank the majority leader.

Mr. BYRD. Mr. President, I am ready to vote.

Mr. DOMENICI. Mr. President, will the distinguished majority leader yield the floor so I may yield myself 5 minutes?

Mr. BYRD. I yield.

Mr. DOMENICI. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized on his time.

Mr. DOMENICI. Mr. President, I am very shortly going to yield back my time and I hope the majority will yield their time on this motion.

I joined with the distinguished majority leader as a proponent of this motion.

Essentially, last night we put in the RECORD for printing purposes the so-called leadership package. I think most Senators have seen or are familiar with the so-called Kassebaum package. The distinguished Senator from Texas, Senator GRAMM, is on the floor, but I think most people are familiar with his package, and I am using the word "package" in the sense that there is more than a single amendment almost in the nature of a perfecting amendment that leaves only some of the old reconciliation bill and taking the place of the leadership package. That is what both Senator KASSEBAUM and Senator GRAMM would do.

All we are asking the Senate to do here today in this motion is to waive those provisions of the Budget Act that would otherwise require 60 votes, and this motion will require 60 votes in order to accomplish that.

I want Senators who have asked this Senator about motions to strike to understand that this in no way changes anything. Motions to strike were in order, as I understand it. They only required a majority vote whether or not this is adopted. That was the situation with reference to the entire reconciliation bill. If amendments beyond these three packages are desired, the distinguished majority leader has just indicated they are going to be in order under the time limits that we have in the Senate and subject to the rules of the Senate on a reconciliation bill.

This in no way intends to make those amendments either less difficult to offer or easier to offer. They will be subject to the exact same rules that they would have been had this motion not been adopted.

I urge Senators to adopt this motion. We must pass something in the Senate, either the leadership package or some major package of deficit reduction. And since everybody knows what these are, we are asking in advance that they waive the provisions of the act requiring 60 votes.

If I may engage my friend, the Senator from Florida, in a brief colloquy on the motion before us.

The waiver we are about to vote on would waive certain points of order under the Budget Act and under section 20001 of the Comprehensive Omnibus Budget Reduction Act of 1985 for the leadership amendment, the Kassebaum amendment, and an amendment and motion to recommit with instructions offered by Senator GRAMM.

Mr. CHILES. That is correct. We are creating a level playing field to allow the Senate to consider both the leadership package and freeze packages.

Mr. DOMENICI. It would also waive these points of order for certain provisions in the conference report on this bill. I want to be perfectly clear on this point, Mr. President. We are only waiving these points of order for provisions of the three amendments—whichever is adopted—that are also included in the conference report. We are not waiving points of order for new material added in conference or for any other material not included in these three amendments.

Am I correct on this, I ask my friend from Florida?

Mr. CHILES. That is correct. We want assurances that once we have adopted the leadership package, it will still be in order when it comes back from conference with the House. It does not open the door for new material.

Mr. DOMENICI. Could I just make one further comment? I have been asked to make this comment by a number of Senators and I think they are absolutely right.

This waiver in no way increases spending. This waiver in no way permits an increase in spending. All of the packages are deficit reduction packages. We are merely asking that the requisite votes for their adoption, if it is the Senate's desire, be a majority vote instead of 60.

Mr. CHILES. I think we also need to point out that without this we only have the reconciliation package which simply is a shell and does not have any

savings and we need this to make the savings.

Mr. ROTH. Mr. President, I rise to voice my support for the motion to proceed with the leadership's substitute amendment for the budget reconciliation bill. While I continue to believe the budget accord with the White House is topheavy with taxes, in my opinion this is an agreement between the President and the leadership of the Senate and the House.

And I believe this proposal should be given the opportunity to be voted on up or down, procedural matters aside. The American people have waited nearly 2 months for the Senate to consider this package, and I believe we should consider it today.

Personally, I have reservations about the package. But I do believe it deserves the opportunity to be voted on. I do feel that, despite my aversion to a tax increase—and my vow to fight one—Chairman BENTSEN has done an impressive job in producing a new Finance Committee package. The $9.2 billion in new taxes does represent an improvement over the original bill reported out of the Finance Committee, as well as H.R. 3545 as passed by a one-vote margin in the House.

The tax package contained in the leadership amendment was carefully crafted so as not to unduly burden any one sector of the economy, or any one region. Although I am not an advocate of tax increases, I believe we must let the process go forward.

ALLOW GREATER FLEXIBILITY FOR USDA IN DETERMINING SAVINGS IN COMMERCIAL GRAIN STORAGE, HANDLING, AND TRANSPORTATION COSTS

Mr. CONRAD. Mr. President, I rise to express my concern regarding provisions in the agricultural portion of the budget reconciliation dealing with commercial grain storage, handling, and transportation.

In particular, I urge the conferees on the budget package to allow the maximum possible flexibility for the Department of Agriculture in finding the $230 million in savings in commercial storage, handling, and transportation.

The Commodity Credit Corporation [CCC] has many options for effecting cost savings—through stock reductions; by avoiding unnecessary CCC grain stock movements; by making grain swaps in lieu of moving grain; and by shopping for relatively inexpensive warehouse space.

These options to implement cost savings will allow the market to function, and minimize the potential disruption to commercial grain storage operations, and to the farmer who relies on the warehouseman to store his grain and to participate in Government programs.

It is my intention that the USDA be provided the maximum amount of flexibility in achieving the savings in commercial storage, handling, and transportation. USDA should not be required to reduce payment rates for storage, handling, and transportation if other savings can be found.

Mr. BYRD. Mr. President, this motion merely allows this amendment to be in order. The vote would still occur on the amendment. But without 60 votes to adopt this motion, the leadership amendment is not in order.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I yield back my time.

Mr. DOMENICI. I yield back my time on the motion.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion of the majority leader. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from New Hampshire [Mr. RUDMAN] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 13, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—81

Adams	Exon	Mikulski
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Biden	Glenn	Nickles
Bingaman	Graham	Nunn
Boren	Gramm	Pell
Boschwitz	Grassley	Pressler
Bradley	Harkin	Pryor
Breaux	Hatch	Quayle
Bumpers	Heflin	Reid
Byrd	Heinz	Riegle
Chafee	Hollings	Rockefeller
Chiles	Humphrey	Roth
Cochran	Inouye	Sanford
Cohen	Johnston	Sarbanes
Conrad	Karnes	Sasser
Cranston	Kassebaum	Shelby
D'Amato	Kennedy	Simpson
Danforth	Kerry	Specter
Daschle	Lautenberg	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Lugar	Thurmond
Dole	Matsunaga	Trible
Domenici	McCain	Warner
Durenberger	Melcher	Weicker
Evans	Metzenbaum	Wirth

NAYS—13

Armstrong	Kasten	Proxmire
Bond	McClure	Symms
Garn	McConnell	Wallop
Hecht	Murkowski	
Helms	Packwood	

NOT VOTING—6

Burdick	Hatfield	Simon
Gore	Rudman	Wilson

So the motion was agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 81, the nays are 13. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senate will please be in order.

The Republican leader.

Mr. DOLE. Mr. President, I designate the distinguished Senator from New Mexico [Mr. DOMENICI] as the Senator in charge of the time on this side.

Mr. BYRD. Mr. President, I designate the distinguished Senator from Florida [Mr. CHILES] to be in control of the time on the bill on this side.

Mr. DOMENICI. Mr. President, I yield myself as much time off the bill as I require.

Mr. President, I wonder if the distinguished chairman of the Budget Committee, Senator CHILES, is now prepared to present opening remarks. I prefer that he precede me.

Mr. CHILES. I am ready to proceed.

Mr. DOMENICI. Before the Senator proceeds, might we indicate to the Senators that we are now going to engage in some opening remarks and explanations of what is in the leadership bill and where we are, and then our amendment will be open to further amendment, as I understand.

Mr. FORD. Mr. President, I make the point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. Will all Senators engaged in audible conversations please cease conversations or retire from the Chamber.

The Senator from Florida.

Mr. CHILES. Mr. President, let me just say at the outset I am very pleased with the vote that we just had, 81 to 13 on the motion to waive. What it says to me is that the Senate is serious about seeing that we do something on deficit reduction, and we are serious about sending the signal to the country that we intend to pass the package and we intend to follow up on what the leadership summit was doing and pass a major, meaningful package in regard to deficit reduction.

Mr. President, with that start, I would say that years ago a very smart and I might add a very anxious watcher of the American system asked a question that the Senate now has a chance to answer. She said, "I wonder whether we will ever grow up in our politics and say definite things that mean something."

I think the leadership amendment shortly to come before the Senate says some very definite things about our determination to wipe out the Federal deficit, and I think it means something. More importantly, it actually does something.

During the next 2 years, we are going to reduce the deficit by $80 billion. A Congress led by one party and a President of another have made some hard choices about spending cuts and revenues for the good of the economy. It certainly means some pain. It means doing without for the time being so that we can do better in the future. It means paying out a little more so that we can do a lot more about the Federal deficit, our No. 1 economic problem.

On December 3, the Senate Budget Committee reported out a reconciliation package without recommendation. It was actually just a formality under the Budget Act. We do not have the authority to change what the committees send to us. So without recommendation, the Budget Committee has reported to the full Senate what amounts to a shell. Now we intend to replace it with a deficit reduction agreement reached between negotiators from the Congress and the White House.

The process that brought this package to the floor was a very long and grueling process, and each Senator, whether as a member of the committee or as a representative from his or her State, had to invest hard work and give up parts of their own agendas.

By approving the leadership amendment, every concession and all the days and months of work will have been worthwhile.

Mr. President, many Members of the Senate played a vital roll in this effort, but certainly Senators STENNIS, HATFIELD, BENTSEN, JOHNSTON, and DOMENICI were all relentlessly searching for the common ground where we could reach agreement. Senator PACKWOOD was also involved in those matters.

Of course, the leadership of Senator BYRD was crucial, with Senator DOLE sitting in as the minority leader being very, very helpful.

And, of course, the leadership of Senator BYRD was crucial. His persistence, willingness to listen and capacity for hard work helped keep everyone's feet to the fire.

The committees—including Finance, Governmental Affairs, Agriculture, Labor and Human Resources, and the Veterans, Committee—have worked long and hard to achieve the required real savings.

I also want to say a word of thanks to my good friend PETE DOMENICI. We have not always been on the same side of the issues. But Senator DOMENICI and all members of the Senate Budget Committee were there when it counted most, and I am grateful for all they have done.

Yet, even after all the work and all the time that went into this effort, there is no point kidding ourselves. There is still a sense of uneasiness in this Chamber.

Some feel they have given up too much. Others—myself included—wish we had accomplished something more. But the fact is, we have accomplished a lot.

MAIN ELEMENTS OF THE SUMMIT AGREEMENT

We have the largest deficit-reduction package in history to show for our work. We have had the serious and central participation of the President.

And we have an agreement with some ache in it, because discipline is not an easy thing to accept. After years of passing each other in the night, we are back on the road with the lights on and heading in the proper direction.

The agreement we will put before the Senate today is a worthy package, and worth the approval of the Senate.

It says something, and in straight language, here is what it says:

Eighty billion dollars in deficit reduction over 2 years.

Deficits lower by $33.7 billion in 1988, and by $46.2 billion in 1989.

A reduction in the deficit as a percentage of the gross national product from 4.2 percent in 1987 to 2.9 percent in 1989.

The prospect of a Presidential election year without a crippling battle over the budget.

Here is what the deficit-reduction agreement means in more specific terms:

Additional taxes of $9 billion in 1988, and $14 billion in 1989. When combined with stiffer IRS compliance measures and additional user fees, new revenues total more than $28 billion over 2 years.

Military savings add up to $13 billion combined for 1988-89.

Mr. President, when I point out the revenues here, I take just a minute to specifically say what a soldier Senator BENTSEN has been, not only through the summit but in the original reconciliation, in the summit, and in putting together this package. The Finance Committee—and so I speak also for all the members of that committee—was the first committee to complete its work and yet they had a major, major part of this package. They complied with that. Their savings are true savings. They are vouched for in effect by the administration. We have a package that is acceptable with the administration people, and much of that is because of the tenacious, courageous leadership of Senator BENTSEN. I certainly take my hat off to him and the work he has done in this regard and the leadership that he gives the Finance Committee in the Senate as well.

Domestic savings total some $20 billion over the same timeframe.

I also want to compliment Senator STENNIS and Senator HATFIELD. The Appropriations Committee is sending to the floor a continuing resolution with no amendments. That continuing resolution sets forth the target figures that were agreed on for the numbers in defense, the numbers in foreign assistance, and the general domestic budget numbers. That committee has again complied with the letter and the spirit of the act, and again we compliment them, the membership in the committee, and hope when we get to the continuing resolution all of those figures will hold up, because again they are crucial in putting together this package.

Overall, the agreement means that for every dollar in additional revenues, we reduce spending by $1.75. What we have here is a balanced package to sharply reduce the level of Federal borrowing.

This agreement does not touch Social Security. But it does include entitlement savings—reductions in the farm price support program, reduction in the balances for guaranteed student loans, restraint in payment to providers under Medicare. And I would also point out that this agreement will mean a 1-year freeze on all but 25 percent of new post office construction around the country.

During the course of the debate on this measure, we will have the chance to hear from the members of a number of the authorizing committees who will explain the individual changes in more detail.

But we should keep some general facts in mind. First, the deficit-reduction summit was not intended to produce a comprehensive legislative agenda. So the summit package is a perfecting amendment rather than a total substitute. Yet, by finding savings in both domestic and military accounts and by adding revenues, it fulfills the primary mission—and that was to find a fair mix of policy changes to sharply cut the deficit.

That is what we have done. We have done it without gimmicks, and we have done it for 2 years.

Like anything else we do in the Senate, this package will have its detractors. But consider where we would be without it.

There is every likelihood that the White House and the Congress would have remained at an impasse, blocked by politics from moving ahead, and condemned to go backward by accepting automatic spending cuts.

The markets at home and around the world may not be overjoyed by what we have done. But consider the reaction had we failed to achieve an agreement. And consider the prospects of what might happen if, in these last

days of the session, we fail to approve the package we promised.

More than anything else, consider the reaction of people throughout the Nation who are watching for the sign of our intentions about the Federal deficit. Unless we act now, we will be loading the dice in favor of other nations competing for the economic edge.

Each of those is a negative reason. But, in the end, the reasons for adoption of the leadership amendment are all positive.

We have real deficit reduction here. We have it for 2 years.

And we have the sobering fact before us that we have a great deal more to do.

For too many years, we have approached our work like bricklayers without a blueprint—filling in here, patching up there—to keep the economy from falling down.

With the leadership package, we have a solid foundation, built with the right mix of savings and revenues to show this country is serious about the future of our economy and the health of the world's economy.

I certainly hope the Senate will approve the agreement.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. DIXON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself off the bill as much time as I require.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, first let me say that the chairman of the Budget Committee, Senator CHILES, has put the issue clearly before us, and I take this opportunity to compliment him for his patience, his persistence, and his forbearance in bringing us to this point. There were a lot of us who were not too sure we could get here this year, and I want to compliment him for that.

As everyone knows, Senator CHILES has decided, at the end of this term next year, to leave the Senate. While I have publicly made my views known about that, I have not had an opportunity on the floor of the Senate to indicate my genuine friendship for this man, nor have I had an opportunity to compliment him and his State. They have sent us a true public servant in every sense of the word, a man of absolute integrity. Clearly when it comes to the budget and matters of fiscal responsibility, he has been a leading force in trying to instill some common sense into our processes, and, yes, indeed, into the battle between Republicans and Democrats, the President, and the Congress in an effort to address this lingering devastating issue of continued deficit spending.

Mr. President, having said that, let me suggest while that Black Monday with that enormous drop in the stock market is a few weeks behind us, I hope no one here thinks that we can go home for Christmas and return for a new year and not accomplish a significant deficit reduction. If anyone does, they are missing the absolute obvious.

While there are many reasons to be concerned about the international markets, the American economy, and while many things have to be done in the next decade, one thing is obvious: The signals are strong, consistent, persistent—reduce the Federal deficit during periods of growth. When the economy is moving ahead, do not continue the wild policies of major, major deficit spending. That is one message.

The other is that there are certain crises in this country that require the President of the United States and the Congress, Democrats and Republicans, to act in concert.

I really did not think we would ever see the President and Democrats and Republicans in both Houses joining together in a deficit-reduction package. Years ago we used to do things like that on foreign policy, as I understand it. I understand there used to be a great rule named after a great Senator named Vandenberg: "Our disagreements stop at the seashore." But in matters fiscal that Monday served a purpose. It said to all of us and to the President, sit down together talk, and come up with an agreement.

We are going to hear a lot today. We have already heard much about this package not being big enough, and, not reducing the deficit enough. As a matter of fact, we have heard, as my friend from Florida will know, people admonish us as members of that so-called economic summit and say, "Where were the leaders? Where were the people with guts? We need a little more absolute positive gusto for deficit cutting. Where is it?"

Well, when you have to put together a package that the President will sign, that a Democratic House and a Democratic Senate can pass, that Republicans will help them with, that is a different story. That means everyone has to do some things they did not want to do. And we did that. We did not build this legislative package in its detail. But in that summit we ended up agreeing, and our President agreed, to some things he said he would not agree to before, Members of the other side agreed to some things on defense they had indicated they would not agree to before—we all agreed to restrain discretionary appropriations for 2 years. And we were not sure we could ever do that.

There are many entitlements we did not touch. And the reason we did not touch them is because the President took them off the table. And remember the rule I just said. We were trying to get something that could pass and get signed, not another 2 months of confrontation, no winners, no Republicans as victors, no Democrats as victors, going to the American public saying they won. Some of it we did not like. Some of it was tough. But we did it. That was the goal: To put our arms together and whatever flak we are going to take, take it collectively, Republican President, Democratic House and Senate, and Republicans in both Houses helping.

So there are some revenues in here. And I compliment the Finance Committee and their leader, Chairman BENTSEN. There are some entitlement savings in Medicare. They do not affect beneficiaries, but they are a bit tough on some of the institutions and medical professions. Yes. There is a little bite out of agriculture. Those programs are growing dramatically, and the farmers are probably as willing as any other group in America to get the deficits down.

So there will be a reduction there. And I am not going to go through the list. But I am going to make this point: While we did not have any authority in this economic summit conference to draw legislation, this leadership amendment that is before us in terms of deficit reduction, the amount of revenues, the amount of entitlements in each of the 2 years, the mandatory reduction in the expected growth of discretionary programs in both years with caps on both defense and domestic are exactly as agreed to.

There may be some difference of opinion on the substance. When we go to conference, the President has reserved his rights to accept nothing that is inconsistent with the summit conference. And there may be some things in this overall package between our leadership package and the underlying reconciliation bill that are inconsistent in the President's views.

But we cannot solve every single problem on the floor of Senate. We still have to get the House in conference, and then we still have to pass both Houses with that conference report.

So, what have we accomplished? I would like to put it another way. For those who want to do nothing, they do not want the leadership package; they do not want the Kassebaum package; they did not want Senator GRAMM's changes in the Kassebaum package. What they want in my opinion—and I have the greatest respect for all of them, if there are 10 or 20 of them around here—they want chaos in my opinion. They want a sequester.

I have spoken to the sequester issue. I have worked hard on it. I did not happen to be for it this year. Gramm-Rudman-Hollings II did not get my support. I was among the 38 who

voted against it. But I know this: The sequester is neither a game plan for responsible government, nor is it a game plan for responsible deficit reduction. It is a hammer, a train on a track that is about to wreck. You do not expect the hammer to hit you in the head, and you do not expect the train to crash.

What do you expect? You expect Congress and the President to adopt a prudent policy that avoids it. No one to my knowledge who advocates a sequester says it is something we ought to invite, adopt, encourage, let happen if there is a substantive alternative that reduces the deficit and is reasonable—no one. Twenty percent of the total budget is sequesterable, and 80 percent is not. Defense under this sequester would get about a $25 billion budget authority reduction, arbitrary and across the board, in one swoop. I mean it is almost insane in the sixth or seventh year of buildup that has stagnated and will not grow much to think that a sequester is good policy.

So all of these things pushed us to accomplish something. And that is what we are here asking the Senate to vote for ultimately, the so-called leadership package.

I would also say to the Senate—I said it in all dollar respects, money respects—that deficit reduction respects meets the summit's concurrence, and the summit agreement. It does. On the revenue side it is right on target. It met not only the agreement but the statements of the chairman of Finance, Ways and Means, and the President about not only the dollar numbers but the type of subject matter which would be in the agreement. Entitlements on Medicare and agriculture meets the agreement, as well as the sale of assets. There might be a dispute on the REA refinancing when we go to conference. But we have actually placed in this leadership package $2.5 billion in asset sales in excess of the summit agreement so that we go to conference with the ability to negotiate with the White House and others regarding the asset sale package. As a matter of fact, this deficit-reduction package is $33.7 billion in the first year instead of the $30 billion we expected. This is because of those asset sales that I have just described, giving us some latitude on that package in conference.

Mr. President, some people, both within the Senate and out in the marketplace—some about 15 minutes ago—have been critical of the size of this package. Some have sort of chuckled that we surely should be able to do more in this kind of crisis. Well, I say to all of them, just think of what the U.S. Congress will look like if we do nothing.

I think $33 billion in the first year, a 2-year mandatory budget for the first time in history, $45 billion in the second year, done in concert among Democrats, Republicans, and the President. The President has never been able to get an agreement of this magnitude with Congress since early in his tenure, nor have we with him. For this reason alone, I think this agreement sends a very positive signal.

We are not doing this for the stock market or Wall Street. We are doing it because we are worried about our economic future, jobs in your city and mine, for our children. We want to keep growth going and add jobs and prosperity.

I believe that, in essence, this is a very positive act. It moves in the right direction, and clearly it is better than doing nothing, by a long shot. In my opinion, it is dramatically better than a sequester.

I have said before, and I want to say one more time, that this sequester, if we let it go in place, come January and February, has no chance of sticking. It will not stay. Can you imagine that on February 5 or 6, we come back, and we have not done anything? Except a sequester? Can you imagine what our President is going to ask us to do on defense when what we have done as I have described is totally arbitrary? He will ask that we put some money back. The response from the other side and from many of us will be to put some money back in domestic programs. These programs will have also suffered enormous arbitrary cuts. The end product: No deficit reduction come March. That is how I see it. Is that really what we want to do?

Frankly, I believe that is a negative outcome in all respects. We cannot work together. That is a negative. We cannot do anything but try to trust this across-the-board activity that will not stand the test of reality. All of those are negatives. All pluses evolve from passing the package.

Mr. President, there will be two substitutes—I use that word loosely—for the leadership package. I have nothing but the highest regard for both proponents. Senator KASSEBAUM's package has some very exciting ideas. Senator GRAMM's substitute for that, if he offers it, is certainly deserving of consideration. But I want to say to them in advance: Remember, we went to the economic summit to get something that could pass both Houses and get signed by this President, our President, and become law. We believe that after conference, some adjusting, we have exactly that in the leadership package. I do not believe there is any other game in town that has those qualities, no proposal that has those characteristics.

So, not by way of substantive objection, I will have to oppose them, but clearly I compliment their sponsors and supporters in advance.

I do hope, however, that before we wrap up this reconciliation, we will adopt the leadership package with few amendments, if any; work our will on the remainder of the reconciliation package. There are some disputes with reference to the fairness doctrine and other things—and certainly by sometime tomorrow send the package over to the House, so that we can have a conference on this entire package.

Mr. CHILES. Mr. President, I ask unanimous consent that small electronic calculators be permitted on the floor of the Senate during the consideration of S. 1920.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, will the distinguished Senator from Florida yield on his time?

Mr. CHILES. Mr. President, I yield from the bill such time as the majority leader might utilize.

Mr. BYRD. I thank my able friend.

Mr. President, the deliberation on the leadership amendment to implement the budget summit agreement is an exercise in the practical, the doable, the attainable. For 6 years, the Congress and the President have been at odds on how to reduce the deficit without crippling America's future. Those differences, and the resulting inaction, have been at the root of this country's major domestic problem—the budget deficit. Our people, let alone our allies, are increasingly concerned at the inability of this Government to set its financial house in order.

Every Senator has heard of the consequences of failing to reduce the budget deficit—continuing trade problems, more borrowing from foreigners, turmoil on Wall Street, reduced standards of living, higher interest rates, and a growing perception of a Government incapable of governing.

In addition to those woes, there is a new one this year—sequestration. Without a budget agreement, the automatic budget cuts contained in the Gramm-Rudman law would be triggered. And if sequestration became a permanent reality, we would all surely hear from our constituents. I know I would certainly hear from my people in West Virginia who are tired of the fingerpointing and are ready for some fiscal responsibility.

The budget levels afforded to national defense under a sequester would sap our readiness and undermine our ability to defend vital interests throughout the world. Yet, this is just the opposite of what we should be doing with the signing of the INF Treaty. The signing of the INF Treaty makes it incumbent on us, more than ever, to sustain the strength of our conventional forces.

As a matter of fact, when the Senate was debating the Defense authorization bill—I believe it was the Defense

authorization bill—I offered an amendment to require the Secretary of Defense to conduct a study of the modernization needs of our conventional and nuclear forces that would result from the ratification of an INF Treaty. That amendment was adopted, and it requires the submission of that study to the Senate, along with the submission of the treaty.

Mr. President, a sequester, if it were to go into effect, would be sending exactly the wrong message and going in the wrong direction from the direction in which we are going as we consider the INF Treaty.

If the sequester were to go into effect, the budget levels for drug enforcement would let more drugs slip across our borders and onto the streets, poisoning our children.

Similar tales can be told of lapses in aviation safety, health and safety inspections, and other vital services if the automatic, across-the-board spending cuts become permanent this year. Across-the-board sequester cuts, far from being the easy answer some believe them to be, are fundamentally irresponsible.

Thus, the task of the budget negotiators this year was not just to reduce the deficit, but to do so in such a way as to avoid gutting those programs that protect our citizens, and that protect this Nation's security. Fortunately, the negotiators succeeded. Once implemented, the budget summit agreement will reduce the deficit and obviate the need for a sequester.

But it will do another important thing. It sets a framework for future progress on the deficit. It is a beginning step that shows that the President—yes even a Republican President—and the Congress—yes, even a Democratic Congress—can work together toward the greater national interest.

There have been those, inside Congress and out, who complain that the budget agreement is too little, too late; that it is insufficient to bolster the stock market or restore the confidence of our allies; in short, that it is a mouse.

Mr. President, I find such characterizations are a little bit discouraging and somewhat off the mark. The representatives from the administration, the congressional committees, and the leadership, labored for 4 weeks, into the evenings, on weekends, on holidays, in search of a budget package that all could agree to. They deserve our sincere congratulations for their perseverence and their perspiration. During those talks, they considered many plans. Yet none, save the one before us today, could command the support of the President and the joint congressional leadership in both Houses.

I said at the outset that the deliberations over this leadership amendment would be an exercise in the practical and the achievable. This budget is achievable. The leadership supports it. The President supports it. It can be enacted. It is a guarantee of deficit reduction this year.

Now as to those who believe that it is not enough, let me ask them to consider the fact that, in its first 2 years, this budget will surpass previous efforts in the amount of permament deficit reductions achieved through legislative changes.

In its first year, this amendment will save $29 billion from the CBO baseline deficit for 1988 and $50 billion for 1989. So there is a total of $79 billion for 2 years. Now it is my understanding that that is the greatest amount ever for 2 years in budget reduction.

So, let us not refer to it as "just a mouse." It is the best ever; it is an accomplishment. And I have already indicated what would be the result if this were to fail. So that is no small feat, Mr. President. It should engender the support of those who are committed to real, permanent deficit reduction.

There are many in this Chamber for whom this budget agreement and this amendment are not ideal, and I am one of them. This is not the package that any one of us would construct if any one of us were a king. But the greater goal of enacting into law a measure to reduce the deficit takes precedence. The President has his budget. The Congress has its budget. Neither approves of the other's budget. Yet without agreement, chaos will reign.

This budget achieves that necessary agreement and avoids chaos. It is a balanced approach, combining revenue increases, with spending cuts, both in defense and domestic programs. It is a responsible budget, and it is responsive to the needs and priorities of the country. I may not agree with every single piece of this package, but the common good resulting from its enactment overshadows any individual shortcomings. I support the leadership amendment as the best, indeed the only, way to reduce the deficit this year.

I urge all of my colleagues to vote for the leadership amendment and to vote against amendments to the leadership amendment.

Let us keep in mind that this is an amendment that has been agreed upon by the Republican leadership in the Senate, the Republican leadership in the House, the Democratic leadership in the Senate, the Democratic leadership in the House, and the President of the United States.

Now start tampering with it and it begins to unravel. When that happens, some of these elements of leadership in one place or the other will jump ship and down goes the package.

So let us be careful. We may not like it in its entirety, and there may be some parts of it we do not like that otherwise we would not support. But let us take the achievable. This is the achievable. This is the agreed-upon package. This is the leadership package. This is the package that has been agreed to by the President.

We must not tamper with the leadership amendment because once it is changed, then it is no longer an agreed-upon leadership package with the combined support of the Republican and Democratic leadership in both Houses and the President of the United States.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to ask some questions.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Will the majority leader yield me 5 minutes or whatever time is appropriate so that I might ask some questions?

Mr. BYRD. On behalf of Mr. CHILES, I yield the distinguished Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the leader and the Chair.

I just listened to the majority leader outline the leadership proposal. I believe that he and others know and recognize that I feel that we should be doing more and I will be supporting another amendment that is going to be offered, but I simply say that there is no question in this Senator's mind that the leadership package, although I think it is lacking in what we need to do, is far, far better than falling back on the sequester under Gramm-Rudman for a whole variety of reasons.

The message has been quite clearly delivered here on the floor of the Senate this morning that this package has been agreed to by the Democratic and Republican leadership in both the House and Senate and that this package has been agreed to by the President of the United States and his representatives.

If that is accurate, which I hope it is, then I assume that there will not be significant changes made in the proposal in the conference. But I would like to ask a question of any one of the participants in the budget summit as to whether or not all of the matters have indeed been resolved. It was my understanding and it certainly was the intention that when this package was presented to the House of Representatives and the U.S. Senate, it would be a package that had been agreed to in toto by all parties involved and that there would be no changes made in it in the conference. I now understand

that there are certain matters still under negotiation, the REA financing being one of them that I would like to ask about specifically, and it seems to me that both the House and the Senate want to take advantage of the REA financing cut of $5 billion. There seem to be some thoughts that the administration now would like to eliminate that or at least cut it in half to $2.5 billion.

I simply want to know. That is one of the things that I understand is still in dispute. Are there other matters in the leadership package that is being offered here as agreed to by the Democratic and Republican leadership in the House and Senate and the President of the United States that in fact have not been agreed to? I think myself and others are entitled to some explanation in that regard.

Mr. CHILES. I thank my good friend from Nebraska and I will answer his first question specifically, and I will think some and ask my distinguished friend from New Mexico to help me with the second.

As we went through, you know we discussed sort of everything and we discussed asset sales, time after time after time. It was very difficult to come to agreement. As you know, at one time the Senate did not want to score anything on asset sales and the Gramm-Rudman-Hollings said that we would not, and for sequester purposes, that is still true.

So we have to meet our sequester savings and we do in this package without asset sales. But in an effort to try to show we were doing more on the deficit, it was sort of agreed that we would have some asset sales and so we agreed on that figure and I think it is $5 billion in the first year and $3.6 billion in the year 2 that would come off of asset sales. So we could agree on the number.

Now, as to where the asset sales would come from, the administration did not want any of the REA savings and they took that position from the time we started, all the way through the first 3 weeks or so of the meeting.

Here we are getting into week 4, sequester is ready to fall on us, and you know to many of us who felt that we should have been able to do this in the first week or the second week, that was an interminable amount of time we spent. We went over the same areas time after time.

But finally, as the sequester actually sort of went into effect, we knew the deadline was upon us and we were forced then to start making decisions. And we made decisions in a lot of the hard areas—what the revenue number would be finally, what the caps would be in defense, and what would happen in foreign assistance.

Asset sales did not have to be quite as big on everyone's priority because it was not part of Gramm-Rudman-Hollings, it was not part of the sequester, and we got down to that at the last and still could not come to any agreement.

What happened was, as near as I can tell it—and again I ask the distinguished Senator from New Mexico to add to this—the administration said, "We will never accept more than half of the REA savings and we would only accept that if there were certain prohibitions made or conditions made in regard to those savings that we are not having REA's come back in or that we know that this is not going to be a total raid on the Treasury."

Now, those conditions were never spelled out. No one ever said we accept those conditions. No one, to my knowledge, on a piece of paper said, "Well, we will only accept $2.5 billion of the savings." But I think we all did know—certainly the Senator from Florida did—that that was the position of the administration; that where they had resisted REA savings totally, they finally said that they would accept up to one-half.

I assume when we go to this conference, of course, we are putting together a package which has to become law and so we will have the House and the Senate there, but we will have also the administration looking over our shoulder, so to speak.

So as to the agreement itself, the agreement itself was silent on that. Nothing was written into that agreement. But I think everyone knew what the administration's position was. In fact, I think Chairman FOLEY, who chaired the subcommittee, sort of repeated that as being the position several times.

If you ask me if I think I am legally bound or morally bound to that, no, I do not think I am bound to it. But I think I am certainly put on notice that that is strongly their position.

Mr. DOMENICI. Will the Senator yield?

Mr. EXON. I would be glad to yield, but let me ask a further clarifying question.

What are the figures for REA financing in the House and Senate version of this compromise as you go into conference, assuming the leadership package will be approved here?

Mr. CHILES. I think it is $5.3 billion. We have also added in some other asset sales for $2.5 billion. So that there will be room to see that we come out with at least $5 billion in asset sales so that we will know we met what the summit agreed to as being those kinds of savings.

Mr. EXON. My question, though, is, if the House has specified $5 billion in REA sales and the Senate has specified the same $5 billion, under ordinary circumstances, that would not be conferenceable and could not be reduced, is that not right?

Mr. CHILES. I think that under our rules, we do have a wide open scope in conference on the bill. And I do not think the Senator should feel that he is simply protected by the fact that we would be doing something else.

Mr. EXON. But if we could change this, if both Houses have specified $5 billion, if we could change that up or down, I guess is what you are saying, to zero, 2.5, to 4.5, to 9.7, does that apply to everything else in this agreement? I mean, is everything open so that the positions taken by the House and the Senate in this bill go to conference and then the conferees are not bound by what either the House or the Senate mandated or dictated or at least to that which they gave their approval?

Mr. CHILES. Well, I feel personally that we are bound by the shape of the leadership agreement. But that is more of a moral binding. I think the rules themselves allow considerable latitude in this conference under reconciliation.

Mr. EXON. More than in a normal conference on another bill?

Mr. CHILES. Yes.

Mr. DOMENICI. Will the Senator yield?

Mr. EXON. I am happy to yield.

Mr. DOMENICI. Let me see if I could put what we have before us and what we have to do in the next 8 or 10 days with the House to accomplish the deficit reduction package into perspective another way.

The Senator is very familiar with the defense appropriation bill and the defense budget. Now, the summiteers agreement with the President of the United States concurrence is an absolute total number in budget authority and outlays for the appropriations of the Defense Department. The House has a much lower figure in its appropriation bill. And, as you well know, the Senate Appropriations Committee has come up with an appropriation bill that hits that target almost exactly. But they must to to conference, I say to my friend from Nebraska. There are differences between the two bills.

The only thing to which the summit agreed unequivocally was that defense would get that amount of money that you are aware of in budget authority and outlays. So they must confer on all other issues.

There is sitting on the sidelines of the conference, the administration, having been part of the summit, saying, "We have an agreement on the number. Let us make sure we work out a bill that we do not have to veto because it has something that we absolutely do not want and that we have never agreed to and that was never mentioned as an item in the summit."

That is why I have said very carefully to the Senate that the substantive

savings are consistent with the summit.

I might say the tax bill is a good example for my friend from Nebraska. The House has a reconciliation tax bill that is the result of committee actions 3 months ago. We now have a new one that is the result, of the summit, the immediate postsummit bill. The Senate Finance Committee and the House Ways and Means Committee still have to go to conference.

I can tell the Senate, on behalf of the summiteers and the administration, that the bill that the Finance Committee produced is consistent with the summit conference. I cannot tell you that when they go to conference there will not be something changed. The House has to work its will, within the bounds of the total dollars numbers we have agreed to.

In the case of asset sales, I say again to my friend from Nebraska, the summiteers agreed to $5 billion in the first year, $3.5 billion in the second year. I can tell the Senate this agreement does that and more because it has a total of $7.5 billion in asset sales.

But I do not think we can predict with absolute certainty how the conference on those asset sales, including REA, will come out. The administration has reservations such that they want to work with us to achieve area refinancing package they can sign. I think that is the best I can say.

Mr. EXON. I thank the leaders of this bill for their explanation. I just simply want to say that I hope that since the House and Senate are on record for $5 billion savings, that you do everything you can to hold to that. It seems to me that if you have additional savings in the asset sales on top of that, it is not going to hurt a thing, as far as controlling the deficit is concerned, if we would go up to $7.5 billion or even more to help us out in this particular difficult economic period.

I thank both of the leaders and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I had told the distinguished Senator from Texas that I am going to yield time to him off of our side. I am going to do that in just a moment.

Mr. President, before I yield to my friend from Texas, I want to compliment a couple, husband and wife. I do not know them at all. They are not from my State. I have sent a copy of this correspondence to the Senators from Missouri because it happens that Bill and Jane Britt, from Dexter, MO, are their constituents.

In the early days of December, in the midst of the economic summit conference, a letter arrived at my office. I was, indeed, shocked and pleasantly surprised. It was a handwritten letter by these two marvelous people, directed to me. Interestingly enough, it had a check attached. Not a check—a money order, because they did not want to waste time. It was made out to the Senate Budget Deficit Reduction Fund.

We do not have any such fund. However, I assume that passing this bill is the closest opportunity we have to relate to a Senate budget fund. That money order was for $164 and some cents.

The handwritten letter to me said: "Sir,"—and then it goes on with an introductory paragraph that I will not read in its entirety, but it talks about 1 day's pay worth of sacrifice. This man and women, who were obviously fully employed in America, decided to send 1 full day's pay to the Senate Budget Deficit Reduction Fund. Let me read part of the letter:

"What if every working American gave 1 day's pay to be used only on lowering the deficit? Money's to be sent in," as they indicate, "by cashier's check or money order. Thus to hold down extra spending on any unforeseen trouble. One day's pay voluntarily," they say.

"We live in the greatest land in the world. We have learned our lesson * * * so now we need to use what we have learned and get the deficit down.

"To show that we really believe that this could work, we are enclosing our day's pay. What better gift could we give our children and the children of America than the hope of a stronger America?" ending with a quote from John Kennedy, and they put quotes around it: "Ask not what the country can do for you, but what you can do for the country." Bill and Jane Britt.

For any Senators who are going to vote today and have an argument with one piece of this leadership package or another, I hope they will remember the spirit of this letter. I mean, somebody has to sacrifice. Some program has to give a little bit. Somebody has to pay a little more in taxes to get this deficit down.

I ask unanimous consent that that letter and a copy of their remittance be made a part of the RECORD and I yield 10 minutes to the distinguished Senator from Texas.

Senator PACKWOOD, distinguished junior Senator from Oregon, has asked that I yield him time. I want to state as soon as I have the floor again I will yield him whatever time he needs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, December 1, 1987.

HON. JAMES A. BAKER III,
Secretary of the Treasury, Department of the Treasury, Washington, DC.

DEAR JIM: I am enclosing a copy of a letter from Mr. & Mrs. Britt of Dexter, Missouri, which I received yesterday. I wanted to send this to you personally because, as you will note when you read their letter, they not only wrote me about their concerns regarding the deficit but also enclosed a money order which represents one full day's pay for them to be applied toward deficit reduction.

We all have received numerous calls from people all over the country with countless suggestions for reducing the deficit, but this is the first "concrete" proposal I have received.

Thanks for making sure this contribution towards lowering the deficit gets deposited in the right pot.

Sincerely,

PETE V. DOMENICI,
U.S. Senator.

Enclosures.

DEXTER, MO,
November 20, 1987.

Senator PETE V. DOMENICI,
Capitol Hill.

SIR: In a conversation between my husband and myself, he made a statement that has stuck with me, he said, "what would happen, if every working American, gave one day's pay to help lower the deficit".

I think it would be a great step forward, we are in a mess and now is the time for all Americans to come to the aid of our country.

What if every working American gave one day's pay, to be used only on lowering the deficit monies to be sent in by cashiers check or money order. Thus to hold down extra spending on any unforseen trouble. One day's pay voluntarily. We live in the greatest land in the world. We have learned our lesson, hard though it was, so now we need to use what we have learned and get the deficit down.

To show that we really believe that this could work, we are enclosing our day's pay. What better gift could we give our children, and the children of America, than the hope of a stronger America. "Ask not what the country can do for you, but what you can do for your country".

BILL AND JANE BRITT.

PERSONAL MONEY ORDER

First Citizens Bank.
11-23, 1987, No. 145608.

Pay to the order of Senate budget deficit reduction fund, $164.00.

Remitter—Jane M. Britt.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. I thank the distinguished Senator from New Mexico for yielding to me. I find myself torn in this debate and I have tried to figure out why. I think it goes back to that basic human instinct, the instinct for a parent to love even a very ugly child.

As I look at the leadership amendment I find myself torn, really, for several reasons. No. 1, I am very disappointed in the agreement and I am not for it. I do not think it is enough. I do not think it responds to the problem we face. But, on the other hand, I know it would have never come about had it not been for the Gramm-Rudman-Hollings balanced budget law and, therefore, along with 70 or so other Members here who vigorously supported that law, I am at least a foster parent of the budget summit agreement.

So I did not rise today, Mr. President, to urge people to vote one way or another but to make several points that ought to be heard in the debate. I will make those points without hoping to sway anybody. I will feel better as a result of having made them and perhaps they will provide information that could affect the debate some other day.

First of all it is so vitally important that the American people understand that Government does not use the same language that the people of America use. We have heard a great debate over the last month or so about whether we cut enough as this package has been put together. I submit, if you went to Illinois or Texas or Oregon and you went out in the street and you asked the average citizen: What do you mean when you say "cut spending?" They almost invariably would say: If I said I cut spending I would mean I am spending less than I spent last year, less than I spent last month, less than I used to spend. That is what the American public means by "cut." They mean reduce, relative to what you used to do.

Our greatest confusion in the budget debate comes from the fact that when we talk about cutting spending, we have changed the meaning of the word so that we are talking about cuts relative to what we had planned to spend, not relative to what we actually did spend. And that is vitally important.

I want to make a couple of statements that may sound startling, but they are true. There has never been a cut in spending in the aggregate since Ronald Reagan has been President. We have never passed a budget since Ronald Reagan has been President, nor has he proposed a budget, that in the language of Dickie Flatt, from Mexia, TX, would actually cut spending. In fact, despite all the people who are running around the country whining about what has happened with these so-called cuts in Federal spending and how it is a dark day for all the people riding in the wagon who benefit from Government services, I think it is very instuctive to look at what has happened to Federal spending since Ronald Reagan has become President.

In 1981 we were spending $678.2 billion. This year, in the last estimate we are spending $1,015,600,000,000. That is a growth in spending of 49.7 percent since Ronald Reagan has become President. Every year that we have passed a budget since Ronald Reagan became President, we have had a great debate about cutting spending and yet spending has grown every year and has grown by an aggregate 50 percent.

Some might say: Well, yes, but you are talking about increases in defense. So I thought I would figure the number up if you just take defense out. If you take defense out, Federal spending has grown from $521 billion to $733 billion, or 40.6 percent growth in nondefense spending.

This year we have had a lot of talk about cutting spending, a lot of talk about shared sacrifice. In fact, this marvelous couple that sent their check to Senator DOMENICI wanted to do their fair share. They were willing to give a day's pay. I would bet you they thought we were talking about really cutting spending.

They figured if we are going to cut spending, maybe we ought to pay more taxes.

Let me just review what we really mean in this compromise when we speak of cutting spending.

Last year in defense, we spent $282.5 billion. According to the baseline from which we measure deficit reduction, which simply plugs in an inflation rate to last year's figure, we would have spent $290.5 billion had we done nothing. That figure was cut in the budget summit by $5 billion. So in this compromise, after the cut in spending, we are going to spend $285.5 billion on defense, which is a $3 billion increase over last year, which is a 1.1-percent increase in defense spending.

Nowhere else on Earth is that a cut in spending except in Washington, DC. It may be in Moscow, but I am not familiar with their budget.

On nondefense discretionary spending, spending not required by entitlements but spending that is not for defense, we spent $175 billion last year. We claimed to have cut $2.6 billion, but, actually, we are approving in this compromise $182.1 billion or $7.1 billion more than we spent last year.

In fact, the discretionary part of the nondefense budget under this compromise that "cuts spending" grows by 4.1 percent.

Entitlements and mandatory programs grew from $465.8 billion to $502.5 billion, that means they grow under the terms of this compromise by $36.7 billion or 7.9 percent.

In fact, after the "cuts" we have made, if you add up the columns and you compare last year with this year, total spending grows by 4.5 percent. The truth is that we have not cut spending. We have not reduced defense spending, we have not reduced nondefense discretionary spending, and we have not reduced entitlement spending. In fact, under this compromise that is supposed to represent fiscal responsibility, spending grows 3 times as fast as it grew last year.

The point I am trying to make here is this: Every year we are deceiving the American public by using words that mean different things. The American public would revolt at this whole process if they really understood that we have not cut spending in the postwar period. In fact, there has not been a year since the end of the war period, if you date it in 1946, where we have actually reduced Government spending.

Last year, we made the best effort to control spending since Eisenhower was President in 1955. Spending grew, last year, by 1.2 percent, and that was a dramatic, almost revolutionary, achievement.

I want the American people to understand that when we are talking about raising their taxes and sharing sacrifice, that there is no sacrifice inside the beltway in Washington, DC. We have not cut spending. No one has proposed cutting spending. The whole debate has been about controlling the growth of spending, and this year we are not doing a very good job at that. Last year we did quite a good job.

I do not want to end my remarks without putting them in perspective. As I look at this compromise, I am torn because it is clear——

The PRESIDING OFFICER (Mr. CONRAD). The time of the Senator has expired.

Mr. GRAMM. Will the Senator yield an additional 5 minutes?

Mr. DOMENICI. I yield.

Mr. GRAMM. I am torn as I look at this compromise because it is clear that had we not had the constraints of the Gramm-Rudman-Hollings law, the deficit would be a lot higher. The plain truth is this package is an improvement over what would have happened in the absence of any binding constraint on government.

Is it better than the sequester order? Clearly, in terms of spending, we are going to spend a lot more money under this compromise than we would have under sequester. Is it better economically than the sequester order? We could debate that far beyond the time limit we have here to debate. Is it better politically? My guess is it probably is.

But the relevant point is that it is not as good as it ought to be, given the provisions of a law that required us to act and reduce the deficit by at least $23 billion and given the instability in the stock market which clearly was a result of the fact that after 2 years of lowering the deficit we let spending start to grow on us, and we let the deficit start to rise. The Federal Reserve Bank responded to that by taking its foot off the gas and stepping on the monetary brake. The American investment public, which had thought we were going to do something about the deficit changed its expectations. Interest rates started to rise. Instability in the stock market, which clearly is a leading indicator of the economy, appeared.

We had an opportunity to do more in the budget summit. We failed in that opportunity. I think it is unfortunate that that happened. We will have the opportunity again next year and the next, and, thankfully, we are going to continue to debate this issue.

I think it is important that people look at it in that perspective.

Senator KASSEBAUM will offer an amendment that has a spending freeze, but that also freezes the tax rate at 38 percent rather than allowing the tax reform package to go into effect.

I will offer an amendment to strike the revenue provisions of the Kassebaum proposal so that we can vote on her spending control measure with the revenues in the leadership package. I hope that my colleagues will vote for my amendment and give us an opportunity to vote on that.

If that fails, I will offer an amendment that simply freezes discretionary spending, defense and nondefense alike, at last year's level. That is a modest proposal.

I know a lot of people are committed to this package. We can make this package a little bit better if we can adopt that amendment. I hope they will not harden their hearts, having committed to love this little ugly baby. If we can doctor it up a little and put a little ribbon in its hair, dress it up a little and make it a little more lovable, I hope they will not refuse to give us that opportunity.

In any case, I want to congratulate those who have worked long and hard on this package. I wish I had had a chance to work on it. I think I would feel better criticizing it if I had had a chance to have had an input and failed. On the other hand, not having been there and done the work, it is easy from the outside to be critical. I am not going to vote for this package, assuming the amendments fail. This package was not written to get my vote or win my heart. It was written to get a majority and respond to the requirements of the law. Every Member will have to make their own decision as to what they are going to do.

It was an opportunity missed. That opportunity will be back next year and the next and the next until 1992 when hopefully we will have fulfilled the requirements of the law and balanced the budget. I hope we can do that by controlling spending.

If everybody in the country gave 1 day of their pay it would help now, but if we keep spending money at the growing rate that we now are spending money, in a very short period of time we will have squandered their 1 day's pay and we would be asking them for another and then another and then another.

Our problem is a spending problem. It ultimately has to be dealt with as a spending problem. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I am going to take just 2 minutes and then yield as much as the distinguished Senator from Oregon desires.

I want to say very briefly to my friend from Texas, first I listened attentively to his remarks and I compliment him for his grasp of fiscal policy and budget issues in the United States. Obviously today on this package I disagree with the Senator, but I believe his remarks have been very, very guarded.

The Senator has thought through the issue very carefully, and I can read the Senator's remarks one way by saying this package, he does not like the package and would like to make it more lovable—he has a strange definition of lovability. Nonetheless it seems to me that I am drawing from the Senator's remarks that it is better to adopt a package like this than have a sequester.

That is just my interpretation. But I would say to the Senator, he spent a considerable amount of time describing for those who care to listen how we budget around here, that we budget off of a growth rather than off of an existing set of policies. That is true. but I would say to the Senator—and I do not want to make this statement without permitting the Senator to comment—the Gramm-Rudman-Hollings tool, the so-called sequester under Gramm-Rudman-Hollings, is not calculated off of this year's budget either. This was not exactly the Senator's choice; we had to go to conference and get the House to agree. It is a funny kind of duck, so to speak.

You add 4.2 percent to everything including prior year mandatory spending that is in the pipeline. Then you cut off of it $23 billion in the first year.

I argued very strongly against that, as the Senator remembers, in our conference. It is confusing. It permits people to exaggerate the nature of the sequester in terms of its impact. Nonetheless, it is the way we have been doing budget business for eons. We add inflation to everything and then we cut off of that new higher spending levels which are equal to current policies. We did the same in the new Gramm-Rudman-Hollings Law. That will be the way it will be implemented as long as it remains law. This is very, very confusing and difficult, as the Senator well knows, and not as straightforward as the prior approaches.

So the Senator had to accept this approach in order to get the law passed.

Mr. GRAMM. If the distinguished Senator will yield very briefly.

Mr. DOMENICI. Yes.

Mr. GRAMM. I would argue of course—and the Senator could understand it if he had a face like mine—that had I been the only father of the Gramm-Rudman-Hollings law, it would be a much prettier baby. But there were many fathers. I guess we are stuck with the way we do business. Our Founding Fathers very wisely made it difficult to make substantial changes. We try to fight that constraint every day here. Sometimes we succeed a little. Often we do not. But it is important that the public understand the language, and I do believe sometimes we make it complicated, try to make it hard for them to do so. Whether that is by design or not, it is still important to remember that when we are talking about cuts—and politically these cuts are often very difficult, seldom are we talking about actually spending less money than we spent the year before, and that was the point.

Mr. DOMENICI. Mr. President, I am going to take a little time later in the afternoon to respond with reference to spending, because I do believe there is another way to look at the expenditure budget of the United States, and I will try to make the point on discretionary appropriated accounts and defense, both of which are appropriated every year.

I think I can convince the Senate that, in spite of the gross numbers that have been discussed by my friend from Texas, it is not defense spending over the last 3 years even with this agreement, nor is it the discretionary spending in the appropriated accounts that are causing this extreme deficit. Both of these areas are held in substantial check in this budget package.

So long as it is in these areas alone that we are going to restrain and leave most everything else off the table but for agriculture and a few other entitlement programs, if that is the rule, then this is a good package. We are addressing to an extent unheard of, unheard of in the last 15 years, those kinds of accounts in this package both this year and next.

Now, I yield 15 minutes or as much time as the Senator—20 minutes, 30?

Mr. PACKWOOD. Would my good friend leave it open-ended? After having spent 200 hours on this in the month that we worked this out, I would like to speak a little longer than that perhaps.

Mr. DOMENICI. I will for purpose of timing, because we have to know, yield up to 1 hour at this point.

Mr. PACKWOOD. That is all I need. That is ample.

Mr. DOMENICI. I yield the floor.

Mr. PACKWOOD. I thank my friend from New Mexico. He just finished using the word "entitlements." I think for the benefit of those watching us or listening to us we ought to explain every term we use, because we do have a funny language in the Congress. We use acronyms that we think everybody understands, like OMB and CBO. That is Office of Management and Budget, and Congressional Budget Office. Most people do not know what we mean when we say "entitlements."

Entitlement programs are programs under which you are guaranteed to get

money. Unless Congress changes the law you automatically get the money. As opposed to what Senator DOMENICI called discretionary spending programs. Those are normally programs where every year we have to appropriate the money and, if we do not positively act, you do not get any money.

Let me read a list of some. This is not all of the entitlement programs, but it is a list of the major entitlement programs: Black Lung, which is a coal miners' program. When you inhale coal dust, it causes pulmonary problems and we have an entitlement program that guarantees coal miners payment under the Black Lung Program.

Civil Service Retirement. It is the retirement program for our public employees. Coal Miners' Benefits. It is another program for coal miners. Coast Guard Retirement. The name is obvious. It is a separate retirement program for the Coast Guard. Military Retirement is a separate program for military retirees and these are distinguished from the Federal civilian retirement programs. Public Health Service Retirement. The Federal Employees Compensation Act. Foreign Service Retirement. Railroad Tier I and Tier II. These are retirement programs for railroad workers.

Social Security. Of course, we all know what that is. Veterans' Compensation. Farm Price Supports are an entitlement program. If you are a farmer you automatically get a certain amount of money without Congress changing the law. Medicare. Unemployment Compensation. Student Loans. Medicaid. Social Services, which is a program whereby we automatically give money to the States for certain social programs. Supplemental Security Income, which is a form of income to the very poor who are not otherwise usually covered by Social Security. AFDC, which is the aid to dependent children program. Veterans' Pensions. Child Nutrition. Food Stamps. Earned income tax credit.

These are not all of the entitlement programs. But when you add all of the entitlement programs together—and these are programs I emphasize again we do not change unless we change the law. You automatically get it. And with programs that are indexed, which means they go up with the cost of living, what you receive automatically goes up without any vote, without any change in the law. These entitlement programs last year were approximately $462 billion of our approximately $1 trillion Federal budget—approaching half of the budget.

To put it in perspective, the military budget is what we call a discretionary budget. We have to vote on it every year.

One of the arguments that we have, perpetual arguments—and I will say to the credit of almost everyone in the budget summit we knew what had to be done. I was one of those in that 15-person budget summit when we met in that month and tried to come up with a recommendation to the Congress. Almost all of us knew that we would at some stage, someday, somehow, some way have to put some kind of a limit on entitlement programs because they are growing, growing, growing, growing, growing, as a percentage of our total budget.

Just Social Security, Medicare, and the retirement entitlements, none of the others, not farm supports, nothing else I have mentioned, just the retirement entitlements and Social Security and Medicare were 32 percent of our budget in 1986, 32.5 in 1987, 33.5 in 1988, and they continue right up as a percentage of our total budget and one day they are going to eat us alive and we know that. And we know that one day we were going to have to face it.

I am not sure we will ever have as extraordinary an opportunity to face the problem and to solve it as we had this fall and we failed. First we had the Gramm-Rudman-Hollings law, and thank goodness we did. Senator GRAMM was absolutely right. We would have done nothing, nothing at all, had we not been under the gun of having to either cut certain spending across the board or come up with an alternative budget. The alternative budget is what we are working on right now. Had we not had that hammer at our necks, gun at our head, ax at our neck, we would not have acted at all. We never have in the past. But this forced us.

Second, we had the stock market crash. I do not know. I am not saying we have enough to know whether the market crashed because we were unhappy with our budgeting priorities or our deficits or not. I do find it unusual that we have had over $200 billion deficits for several years running and the market went up, up while we had these immense deficits. Last year the deficit came down $70 billion for a variety of factors many of which were beyond our control. It was accidental but it came down. And the market plunged. I am not sure what that tells us. But a lot of people thought that the plunge of the market was related to our inept budgeting procedures and actions. So we had a second spur that we could have used to act.

We could have said Gramm-Rudman-Hollings forces us to act with an alternative budget or we have to cut things across the board; two, the stock market is a harbinger that our deficit is out of order and our budget process is out of order, and we need to act. The public was ready for us to act. They were not just willing for leadership. I think they were crying out for leadership, and if there was a discouraging aspect of this entire budget process with the budget summit—the budget summit group of 15 was not made up of a cross section of Congress. It was not made up of a cross section of leadership. It was the leadership. It was Senator BYRD, the majority leader, Senator DOLE, the minority leader, it was the Speaker of the House WRIGHT, and BOB MICHEL, the Republican leader, then it was the chairman and senior Republican members of Ways and Means, Appropriations and Budget in the House, Finance and Appropriations and Budget in the Senate, and chaired by TOM FOLEY who is the No. 2 Democratic leadership in the House. This is the leadership of the Congress. The one thing that distinguishes this group from the rest of the Congress is they have been elected to a position of leadership, and the one thing that distinguishes people in Congress generally from the rest of the public is that Congress has been elected to a position of leadership. And on occasion you run the risk of leading, and one of the risks you run of leading is that on occasion you will fail.

Show me somebody who has never failed, and I will show you someone who has never tried to lead. So it is that group of 15 who sat together. We knew what had to be done. We had more plans tossed about in these little closed sessions that were closed to the press, a budget freeze, and Senator KASSEBAUM is going to present one later this afternoon. We may have a chance to vote on it. We simply say to General Greene, Judy Smith, Jimmy Jones, "Would you take no more from the Federal Government next year than you got last year? For the sake of the country would you be willing to sacrifice and take no more than you got last year for 1 year to help our budget problem?" That idea was tossed around and discarded.

We tossed around the idea of what we call a 2 to 2 plan, a 2-percent limit on increases. Again, Senator GRAMM is absolutely right. We are not talking about cuts, but a 2-percent limit on increases for 2 years across the board, defense, retirement, and Coast Guard—we could not sell that. The problem was not that the budget summit group thought these were not meritorious approaches. I do not think there was a single member of that group that was worried that he—and there were no women in this group—could not be reelected if he supported that. What the group was afraid of was the rest of Congress would not follow, that we would be rejected as leaders, that we would propose this program and have our fellow Members of Congress turn it down. Of course, the ultimate rejection of leadership is when those who have picked you for a leadership position turn down what you select as a major leadership position.

Early on, the argument was made that the President was not exercising leadership, that he had said Social Security is off the table, we would not negotiate on that; indeed, if that was off the table, we would not negotiate on any other retirement program because it would not be fair to say to the Public Health Service employee, to the Foreign Service employee, to the Coast Guard retiree, we are going to freeze you for 1 year, but not those on Social Security. That is not fair. The argument was made if the President said Social Security is not negotiable, it really cut the heart out of any possibility of limiting all of the retirement entitlements. And it was said the President would not consider any tax increases.

But in the last week of negotiations—we concluded them on Friday—from Monday of that week on, those of us inside the room knew that Social Security and the other retirement programs were on the table; that a tax increase including a gasoline tax increase was on the table. And Secretary Baker very clearly said time and time again that it is not fair just to cut spending. That affects the rich and the poor, and it affects the poor more because they are the beneficiaries of more Federal programs than the rich. If we are going to narrow the deficit the package ought to have some spending cuts and some tax increases. And Secretary Baker, if he said it once must have said it 100 times, this administration will match hard spending cuts with hard tax dollars. Translated that simply meant if we really came up with a proposal to cut $1 billion in spending, really cut it, no funny money figures, the administration would come up and agree to $1 billion in tax increases—real taxes. And in the last 5 days we knew that offer was on the table, and we could not bring ourselves to pick up the offer and respond to the President.

Part of the fear was partisan in this sense. The Republicans have a great fear of limiting retirement increases because they feel, we feel, we made some comments about that in 1982 and again in 1986. And the Democrats hit us over the head in the elections, and said they are the ones who are trying to cut our Social Security. So the Republicans were reluctant to approach a suggestion that we do this unless the Democrats would come along, almost hand in hand we walk down to the ballroom together and dance together all in the same direction.

Conversely the Democrats were very afraid to be the ones to suggest the tax increases because they remember in 1984 and former Vice President Mondale getting hit over the head time after time after time by President Reagan in the 1984 election when Vice President Mondale had said at the Democratic Convention after he was nominated, "I will tell you what I am going to do. I am going to raise taxes and he has a secret plan to do so," and the President said "Not me." Poor old Walter Mondale was just defending that position the entire time. It probably hurt the Democrats in the election. So the Democrats were reluctant to approach the tax part of it.

The Republicans were reluctant to approach the Social Security part of it unless we could all agree to go together. And time and again when this group knew that we would have, I think, gone for a gasoline tax, we would have gone for a 2 percent across-the-board limitation, maybe even a freeze, if we could have, and we all said it time and time again, "Can't we go down to the White House, we will all go together, sit down with the President in the Cabinet Room or the Oval Office or the Roosevelt Room and sit down there one afternoon until we come out, all of us together, in the afternoon with an agreement?" So either we can all claim the credit or all mutually share the blame, Republican, Democratic Congress, and the President. We could never quite get to that step. So what we have with the budget package before us is what has been agreed on.

Here is the problem with this package. I have called it a mouse before and the majority leader referred to someone calling it a mouse. That was I, although I think others have called it the same. It has almost become an ant by now. First, I think when all is said and done we will not save this much. Whether you count it as decreased spending or increased taxes, we will not save as much as we would under a sequester. I know the argument will be at this moment as we are looking at it prospectively that we will save that much.

I think that a year from now, if we add it up, we will not have saved as much as sequester.

Two: We have a lot of—I hate to use the word "phony"; "funny," I guess, is a better word—funny assumptions. Some are not even assumptions.

Here is an example of how we got to our totals: If you would have had a sequester, we would have cut all spending, real spending, across the board $24.8 billion—roughly half from defense, half from nondefense. Because you narrow your deficit $24.8 billion and you are borrowing that much less money, next year your interest payments go down a bit. You do not pay as much interest next year because you are not carrying quite as big a deficit.

So, in addition to cutting $24.8 billion, you can add to the savings whatever reduced interest payments you would have paid next year if you had not made the cut, and you add that to the $24.8 billion. But for the budget package to get $24.8 billion, we have counted as part of the total, to get $24.8 billion, the savings on the interest we make by the cuts, which is kind of a bootstrap argument.

It is apples and oranges. In the sequester, you count it afterward and add to savings. Here, we add it to the total amount of money we are required to get to.

I do not want to say they are fraudulent assumptions, because this is an honest group and this budget package is an honest effort, given the restrictions we were under.

When we agreed that we could not approach entitlements and when we finally agreed—when I say "we," I am counting all of us. I was willing to approach entitlements; the bulk of the group was. When we decided that we could not approach entitlements and when we decided that a budget plan, almost any budget plan, was better than a sequester, we had pretty well boxed ourselves in.

If the entitlements are off the reservation, there goes roughly $460 billion of a trillion-dollar budget, just gone.

So we came up with what we have, a hodgepodge of taxes, and they are legitimate taxes. They will produce the $9 billion, although one of them is an across-the-board speedup. A speedup is nothing but an insider's term to mean that you would normally pay your taxes in 1988 but we require you to pay them in the latter part of 1987, and therefore we get to count the money in 1987 as revenue. But if the speedup is perpetual, it is more revenue than otherwise, and you never have to worry about it until you get to the judgment day, the last day of civilization, and there is no longer a year out there to collect any money from. That is in here.

We have what we would call a Medicare shift, to speed up payments if it falls into one fiscal year instead of another.

I am not complaining, given the constraints we were under. This was probably the best we could do with this exception, so far as I am concerned. I was one of the few who did not regard the sequester as all that horrible. I did not regard it as all that horrible because, one, it was genuine. No one argued this. This was a $24.8 billion cut. The reason we would have cut it was not that we were unable to govern. The very act of this Congress passing the Gramm-Rudman-Hollings Act was an act of governance. We said that if we cannot agree on any other kind of budget, then we will agree that spending will be cut across the board. It is not necessarily good budgeting, because you do that and say that we do not have any priorities. Defense has no higher or lower priority than airports, and airports have no higher or lower priority than education, and

education has no higher or lower priority than highways, and let us cut them across the board. Clearly, things have priorities, and that is what the budget process is supposed to do. It is supposed to say maybe we think education is more valuable than farm supports or farm supports are more valuable than highways, and we make budget choices. Gramm-Rudman-Hollings said that if we fail to make budget choices, we will cut them across the board.

This budget package is the answer to cutting across the board. Here is the irony of cutting across the board.

Senator GRAMM was absolutely right, that when we use the word "cut" we do not mean "cut." In other words, if you receive $100 this year and next year you expect to receive $110 and you get only $105, that is a $5 cut. It is not a $5 cut. It is a $5 increase from what you got this year. If we had had a sequester, defense spending would have been cut, and it would have been a genuine cut, from about $282 billion in spending last year to $278 billion in spending this year. That is a real cut. It goes down.

If we had had a sequester, if we had had these cuts, nondefense spending would have gone up between $40 billion and $45 billion more than we spent this year—not down, up.

The reason, however, that the sequester was so abhorrent to so many people was the way we made the sequester operate. Unfortunately, the sequester does not cut across the board on all spending. We first exempted all kinds of programs from the sequester. All the retirement programs are exempt from the sequester. Almost all of that entire list of entitlement programs I read are exempt from the sequester.

So, if we had actually sequestered and not exempted any programs at all, if we had actually cut spending across the board because we could not reach a budget and had exempted no programs, we would have cut about 2 percent, maybe 2.2 percent, in spending across the board from what we otherwise would have spent—I emphasize that—from what we otherwise would have spent if we had not exempted any programs. That means that if you are a Social Security recipient and received $100 last year, and without any change in the law there is 4 percent inflation, you would receive $104. If Social Security or Public Health Service retirement or civil service retirement had been left in the category of programs to be cut, instead of getting 4-percent increase, you would have got a 2-percent increase, not a decrease. You would have received $102. But we exempted from any cut Social Security, all the retirement programs, almost all the entitlement programs.

Therefore, because we have said under sequester we are going to cut $24.8 billion, we left a very narrow base of programs to cut them from. After we had exempted all the programs that we were not going to cut at all, then the actual cut on the remaining nondefense programs was 8.5 percent. Any programs that did end up being a cut from what they got last year, were not cut because the sequester is a harsh process, but because we exempted almost everything from the sequester and said to the remaining few programs "You take the cut." Defense was one of those. That is why defense would go down under the sequester.

Having said all of that, I would have preferred the sequester even under the law that exempts most of the budget from the sequester. I would have preferred the sequester to the Budget Program we have, to this mouse that has been referred to, because I think this package is funny, in some cases phony. In the long run it will not result in the savings, over the next year will not result in the savings that we now say that it will result in. And, I want to emphasize the people who say it are honest; they honestly think the savings are going to come. I think when we are done, they are not. There are some savings. Certainly guaranteed tax increases, those are there, but not as much in the way of savings as we thought.

I would have accepted the sequester under the law as it was. If I had my druthers I would have exempted very, very few programs from the sequester at all. I would be willing to exempt those that affect the very poor. Actually that is a relatively modest amount of money that the Federal Government spends for the very poor, the poverty programs. You could exempt the very poor, and very poor programs probably do not come to $70 billion to $80 billion at the outside $90 billion out of our total trillion dollar budget, but that is not an option. It is gone. It is behind us.

We first made the decision in the Gramm-Rudman-Hollings Act to exempt all the programs. Second, we made the decision we did not want to do the sequester anyway, so we are going to have this budget alternative.

I am going to vote against the budget alternative. I fear it is a forlorn hope now, but I am going to vote against it in the hopes that if by chance it is turned down, this Congress will again be faced with the alternative of the sequester or an alternative budget package much better than we have now before us.

Senator KASSEBAUM has a package. There can be others. But I fear that so long as this budget mouse is out before us any other program that is offered as an alternative to it is going to have a difficult time to be adopted, and you know why? First, to adopt it you are going to have to put some limitations on the entitlement programs. You are going to have to answer the question every time you go home, "Why did you vote for a freeze for 1 year instead of a 4-percent increase." And while lots of people are willing to do that, if they know it is going to pass, they are willing to take the medicine if they think there are going to be some salutary effects for the country, they do not want to vote for it if it is not going to pass. They do not know what the President might do in terms of vetoing or not vetoing it.

We honestly do not know in this body if the House would pass it, but we have fears that they would not. So we would have voted for it and they would not.

I fear as long as the leadership package is up there and someone offers a substitute to the leadership package, there are going to be a lot of "no" votes because they will say "Well, I am going to vote for the leadership package." But if we defeat the leadership package, so it is no longer up there, if the choice is then an alternative package or the sequester, then I still think we have an outside shot.

The problem we face this year about budget priorities and entitlements is not addressed by the budget package before us or the sequester. It will only be addressed if we adopt a meaningful budget package that perhaps means-tests entitlements and says to the very rich, even though the law says you can have the money from this program, if you are really rich, maybe you should not get as much. Until we start means testing some of the entitlement programs, and until we start putting some limits on them we are not going to solve our budget program. We will not solve it with the sequester. We will not solve it with the budget alternative before us. Unless we adopt some other budget plan, we will not solve our budget problems this year. We will put it aside and unfortunately by the time we address this again, it is next September, September 1988, 6 weeks before the election, 6 weeks before a Presidential election. And if this Congress did not have the courage to face up to the problem now when we had Gramm-Rudman operating for the first time and we had a tremendous drop in the stock market, when we had a public that finally said, "Lead us to something," we will not do it now, I very seriously doubt if we are going to do it in September 1988, 6 weeks before the election.

That means we postpone it for another year until 1989. At that stage the retirement programs, instead of being 33 percent of the budget, might be 34 or 35 percent of the budget, gradually eating away from all directions until we inevitably come to the day when we know we have to face it. And maybe because the problem is so

extraordinary, I should not worry about it so much, because one day we will face it and do it. We have no choice. We are forced to it.

So I would urge defeat of the leadership package today in the hopes that we might today adopt a better package, a package that puts limits on the programs in Government that are extraodinarily growing. If not today, someday we will do it.

But it will take an unusual time before we have a better coalition of circumstances to undertake that action than is before us right now, and that is why I speak more in sorrow than in anger. I am not mad at those who came up with the package. They knew we should have done something better. We could not put together the votes we could not get. We thought our followers would follow. Someday we will. I simply wish it would be today.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, with the acquiescence of the manager for the majority for the legislation, I yield myself 15 minutes on the bill.

Mr. President, I listened to the comments of my distinguished friend. He is one of the ablest Members of the Senate, and certainly one of the most eloquent. I share much of his frustrations. I know where he is coming from.

But I come down with a different conclusion as to what has to be done. There must have been 20 different types of proposals, at least, that were brought to us in that so-called summit meeting. The proposals came from Republicans, Democrats, House Members and Senate Members.

But each time we tried to bring about consensus we would see an erosion from one side or the other side; from the extreme right or from the extreme left; or the White House would say: "Not that."

The White House was more or less in a reactive mode. I did not see the leadership there. I must say that I think Secretary Baker and Mr. Howard Baker did a good job, given the constraints that they worked within. But as far as solutions to the problem, I did not see them.

The problem we run into is this: If we go ahead and we put a freeze on now and we pass it here, then we will go to the conference with the House, and we will have a long and bloody conference. When we get all through with it, we will not get anything done. We will come back here reporting in disagreement. The time will have marched on, the time will have passed, and the time will be running out.

What we are looking at is a situation where, around the world, people are viewing this institution and asking, does it still work? Can the Congress and the President, can the Democrats and Republicans, rise above partisanship to the point of trying to do something they think terribly important to the country, at the time of a near crisis in the financial markets of this country and the world? That is what they are looking toward, some reassurance of stability.

Is this an opportunity missed insofar as going much farther to cut this deficit? Yes, I think that is right. And I supported some of those proposals to try to bring the deficit down substantially more.

What the leadership did was to take six of its senior members from the respective committees, Democrats and Republicans, to go in and negotiate with the White House, and to negotiate with the House. We came back with some of those different proposals. We came back with a relatively modest 3-month freeze, took it before the Democratic caucus, took it before the Republican caucus, House and Senate; shot down.

On the Democratic side, in that Senate caucus, I doubt it had 12 votes from the counts we made. That is what we are running into.

Now, my friend says that a lot of people do not want to vote for a freeze, because they think it is not going to be finally effective, and they do not want to take on those constituencies and cast that kind of a vote, if it is not going to finally succeed. And I grant him that. I think there are a number who feel just that way.

But I will tell you, there are some others that will vote for it because they do not think it will succeed. And they will get themselves a chance to cast what looks like a very politically courageous vote, but they will be praying it does not carry, because you pay politically when one is put into effect and the people feel that pain and they feel that cost.

So that is the strange situation you have on this kind of a vote. They just might win. I do not think they will.

I think what we have seen put together in the leadership amendment is a credible package. I said, at the end of that session of negotiations, that it was the most frustrating experience I had had in my experience in the U.S. Senate, and I meant every word of it. But I say it just as sincerely now that that is behind us.

Here you have a consensus of that summit meeting. The Presidency, the House Members, the Senate Members, and the Democrats and Republicans, represent your deputies that met for days and nights on end to try to bring about what could work.

There is not a Member of this Senate that does not think he could write a better bill, including me, from our specific point of view. But that is not the way this system works. The President does not write this piece of legislation, the chairman of the Budget Committee does not, and the chairman of the Finance Committee does not; nor do the ranking members. It comes through working together, bringing about the compromises that have to be made.

Even here in all the digits we deal with when we talk about finance, $75 billion is still a lot of money. We are talking about cutting it $30 billion for the coming fiscal year, $45 billion for the second one.

Why is it so difficult to get this next year's deficit down? Well, one of the reasons is the aberration in tax revenues caused by the tax reform bill. The capital gains rate was going to go up, so you had an awful lot of people last year who sold properties at the end of the year to get the 20 percent capital gain rate. What you picked up was $20 billion additional funds that were paid into the Treasury, this year on last year's returns—a $20 billion swing. And what did it do for next year? It cut receipts by $12 billion. Not only did you not get that extra $20 billion, but they cut it by $12 billion, because there were a lot of people who sold things last year at the end of the year that they would have sold this year and now will not. So it is a $32 billion swing in those numbers. That is why it will be difficult.

I would like to also call the attention of my colleagues to Congress' recent record on omnibus budget legislation. And that record, to put it bluntly, is dismal. For Congress, budget issues have become almost a Gordian knot.

Take a look at the Senator from Florida and the Senator from New Mexico, as able Members as we have in the U.S. Senate. What an incredibly frustrating job to try to reconcile these differences—all the interest groups, all the political pressures; now we have the loss of one of the ablest Members of the Senate, who chooses not to run for reelection. There is no question in my mind but what this has been a contributing factor.

So many times over the past few weeks I have heard critics say how they could have done a much better job, represented by this package, than eventually was done. I'm not a seer, and I'm certainly not a mystic, and I'll say right now that I have no idea about the accomplishments that we might have enjoyed in some ideal situation. What I do know is this: The Budget negotiators entertained at least 20 distinct proposals that could have formed the foundation of their work. Some came from Republicans, others from Democrats. Some came from the House, others from the Senate. Those proposals that came to be regarded seriously were taken back to party caucuses for review, and you know as well as I what happened to them. They were rejected out of hand, each and every one. Is it too much to

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ask that we put those discarded proposals behind us, and look now at the one deal on which we were able to agree?

What about this package before us? They called it a mouse. Well, that is the first time I have heard $75 billion called a mouse. It is not as much as I would like—the Senator from New Mexico and Senator from Florida tried for bigger numbers to cut that deficit—but it does get us started down that road to a balanced budget by 1993. It does cut some real spending and it does raise some real taxes.

Politically, that is not easy. I do not know anyone around here that wants to have a tax raise named after him. I do not know anyone around here that wants to have cuts in popular programs named after him.

It is not as much as we would have liked, but every journey begins with the first step, and this particular first step chops $75 billion off the deficit in 2 years.

I would hate to see us stumble now because of the recurring fantasy that we can put on our seven-league boots and stride effortlessly toward the budget deficit solution. That kind of daydreaming should stay in fairy tales where it belongs.

And it should not be allowed to cloud our vision on the floor of the U.S. Senate. It would be a tragedy indeed if we passed by this compromise because we were looking for something in the way of a perfect solution.

Action is what we must have, and we need it immediately. I hope and pray that we will get it. I fear, however, that the unfortunate notion that we can achieve perfection is not the only obstacle in our path. Too often in the recent past the Senate has succumbed to inertia because so many of its Members seemed to believe that their version or solution had to prevail. At some point, each one of us has to realize that in a democracy we don't get each bill exactly as each of us would prefer it. At some point, those who deputized the budget summiteers to negotiate on their behalf should embrace the work of their deputies.

No one in this body can honestly say that they did not have their input. We discussed this time and time again with the Members of the Senate. Suggestion after suggestion we received, and we tried them on for size in those summit meetings. This is a consensus document in the strongest sense of the word.

We can attack it from any angle. We can slash it to ribbons. We can stay here until Christmas and/or past Christmas. And if you do not think you can stay until Christmas or past Christmas, between December 25 and the 1st of January, let me tell you the first time I was sworn in the U.S. Congress as a freshman House Member was on December 30, because of these kinds of tie-ups.

And I will tell you what happens as you reach those periods of time. You see debate degenerating, acrimony, very little in the way of consensus work, and often, in anger, the passage of poor legislation.

Let us make this agreement work. Let us make this institution work. We made enough political points this year. We have seen enough of us on our high horses. Let us march together to try to achieve this objective.

If I may, Mr. President, I would like to turn to, and comment briefly on, the portions of the package that are within the bailiwick of the Finance Committee. I do this for the benefit of Members whose legislative concerns have not permitted them to keep abreast of our progress in finance.

Mr. CHILES. Before the Senator turns to that, I wonder if he might yield for a couple of questions I wanted to ask him.

Mr. BENTSEN. I would be delighted to yield.

Mr. CHILES. One, I listened to the Senator and I want to compliment him for his meaningful and eloquent statement. I said earlier in my opening remarks what a soldier the Senator from Texas had been. I repeat those. You were first all the way through this process in trying to help in the Finance Committee getting its savings, in meeting all the objectives that we had and certainly your role in the summit and all of the work that you have done in regard to trying to work toward deficit reduction has just been so meaningful and also so personally helpful to the Senator from Florida, I certainly want to compliment you on that, in that work.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. CHILES. I note that you did speak about the swing because of some of the lost revenue from the Tax Reform Act. I have a copy of a CBO table that refers to that and shows that while, if you look at the deficit, assuming the budget agreement, it shows that our deficit seems sort of flat from $148 billion in 1987; $149.9 in 1988; to $141.9 by 1989. The Senator from Texas was explaining that.

When you take out those swings, it is interesting to note that the deficit is $183 billion in 1987. I am talking, now, about the structural deficit because as you know, we picked up the $20 billion, as I say.

The structural deficit then falls from $183 billion to $141 billion in 1988 and down to $126 billion in 1989. So the structural deficit, with the passage of this package, would fall $42 billion between 1987 and 1988; and $15 billion in 1989. That is some real savings; would the Senator agree?

Mr. BENTSEN. I certainly do.

Mr. CHILES. We are making progress. I ask unanimous consent that a copy of this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET AGREEMENT BETWEEN THE PRESIDENT AND CONGRESSIONAL LEADERSHIP

[By fiscal year, in billions of dollars]

	1987	1988	1989
Base deficit for balanced budget act	148.0	179.9	185.5
Policy changes:			
Taxes [1]		−9.0	−14.0
IRS compliance (net) [1] [2]		−1.6	−2.9
User fees [1] [2]		−0.4	−0.4
National defense spending		−5.0	−8.2
Nondefense discretionary spending		−2.6	−3.4
1989 effect of 2 percent pay raise in 1988 [3]			
Medicare		−2.0	−3.5
Farm price supports		−0.9	−1.6
Guaranteed student loan balances		−0.2	
Federal personnel		−0.8	−0.8
PBGC premiums		−0.4	−0.4
VA loan origination fee extension		−0.2	−0.2
VA loan sales without recourse		−0.6	−0.6
Asset sales		−5.0	−3.5
Debt service savings		−1.2	−4.1
Total policy changes		−30.0	−43.6
Deficit assuming budget agreement	148.0	149.9	141.9
Adjustments:			
Tax Reform Act of 1986	20	−12	−18
One-time outlay savings under current law	15	−2	−2
One-time savings in agreement		5	4
Total adjustments	35	−9	−16
Adjusted deficit	183	141	126
Do		−42	−15

[1] Revenue increases are shown with a negative sign because they reduce the deficit.

[2] These deficit reductions include both revenue and outlay changes; the precise division is not specified in the agreement.

[3] The base deficits in 1988 and 1989 assume a 2 percent pay raise in January 1988. Reducing the 1988 pay raise from 4.1 percent to 2 percent saves $1.1 billion in 1988 and $2.4 billion in 1989.

Mr. CHILES. The other thing I wanted to ask my distinguished colleague and good friend about is, I noticed in the October trade report now we see that the trade deficit was $17.8 billion, an increase of $3.5 billion over the September trade deficit of $14.1. I note that that is accounted for by a surge in imports, manufactured imports rising $3.3 billion; petroleum imports being about $400 million higher. The bright spot was a $800 million increase in U.S. exports but there was even a down side of that with manufacturing exports falling some $400 million. That, of course, has an impact on the dollar, pushing the dollar down.

Now, certainly the Fed is going to find itself in a situation in which it has less running room. It looked like the Fed policy was that we were going to let the dollar fall some and try to get our interest rates down to protect our own economy. Now, certainly, if we do not do something about the dollar, we have to fear inflation very much. I think the Senator from Texas would agree, under the circumstances there is only one wise policy for us to try to follow and that is real deficit reduction?

Mr. BENTSEN. There is no question about that. You have a situation where the trade deficit last year was about $156 billion. If you extrapolate these numbers we are looking at now, you can look at a trade deficit that will be approximately $175 billion this year. That means that our external debt becomes even more. That puts us back in a situation that we were in in the 18th century, when the British could jerk our chain on the economy by deciding whether they renewed our securities or bought our securities at all. It means a mounting foreign debt to this country.

We have to work on that, and on these people that try to say that because of the market problems, all of a sudden you do not need a trade bill. That is heresy and makes no sense at all. It means that more than ever, you need a trade bill, and that we are going to need the help of the administration in bringing that about.

But, in addition to that, what you have to do is you have to cut your domestic budget deficit and this is what we are setting about to do.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Florida is recognized.

Mr. CHILES. Well, reducing our borrowing needs is about the only good way that we can take this pressure off, given the fact that there are these twin problems. If we let the dollar fall further, we have inflation. If we try to raise interest rates—which is one way of preventing the dollar from falling—then we slow our own economy very much. So there is no easy way to manipulate it there, for the Fed or anyone else; and not exactly an easy way, but the soundest way is true deficit reduction. That is the opportunity that we have with the leadership package. Albeit we might have wanted to do more and many people might have wanted to do more, this is the realistic vehicle that is on the block, that we have a chance to do something about, and we certainly should not pass up that opportunity.

Mr. BENTSEN. Well, I agree with my friend. You have the Fed in an impossible situation. If we start going into recession, they have got to lower the interest rate. If we have a run on the dollar, then they have to raise the interest rate to try to keep foreign capital here. But there is one thing that we know that we can do that is positive and constructive, and that is lowering the budget deficit. That is what we tried to do.

Mr. CHILES. I thank the Senator.

Mr. BENTSEN. Mr. President, shortly after the budget summit concluded, I commented publicly that my participation in that exercise was the most frustrating time I had ever spent in the Senate. I meant that sincerely, just as I mean it sincerely now when I say that the frustration is behind me, and that I feel optimistic about our chances on passing the budget package very soon. I am especially optimistic because of the work of the Finance Committee last week. That work helped bring us to this point in our quest for genuine, bipartisan deficit reduction.

During 2 days of intensive work last Wednesday and Thursday, members from both parties on the Finance Committee rolled up sleeves—I mean that literally—set their shoulders to the wheel and made the tough choices that our positions on the Finance Committee demanded of them.

I was stating earlier in my comments no one wants a tax bill named after them nor do they want cuts in any popular program named after them. That is not the kind of authorship we seek, nor the kind of legacy we want to leave behind. But the judgment of history will be with those who tried to do something about the ever-growing deficit that threatens to crush the economy of our country. I believe that members of the Finance Committee had these things in mind as they set themselves to carry out their legislative responsibilities.

Both from the tax side of the ledger, where the Finance Committee produced $9 billion in tax proposals for fiscal year 1988 and $14 billion for fiscal year 1989; and from the spending side, where we proposed cutting medicare expenditures by $2 billion the first year and $3.5 billion the second year, you can see that the Finance Committee has paved the way for practical action to cut the deficit.

I was not alone in my desire to go farther in whipping our disruptive budget posture into line. However, for reasons that I have already discussed at length, I now am just as committed to achieving what the Finance Committee as a whole thought it could realistically achieve.

What the Finance Committee has recommended to the Senate is, almost in its entirely, a compromise on which the Reagan administration has agreed. Treasury Secretary James Baker was with the Finance Committee as we painstakingly developed our plan, and OMB Director Jim Miller was with us as we worked out our recommendations on Medicare.

Tuesday I received a letter from Secretary Baker in which he said that the Reagan administration supports the Finance Committee's plan as a sound method of raising the funds necessary to implement the agreement of the budget summiteers. Secretary Baker said that the plan is consistent with both the letter and the spirit of the agreement.

There are all kinds of things that each of us as Members would have liked to have put in it, a lot of them revenue losers. But the summit participants made a positive and definite commitment that, to the best of their ability, they would try not to have revenue losers put in this piece of legislation; providing that the final decision on details, of course, had to be with the committees and with this body.

Just as the Finance Committee met its responsibilities on the revenue side, so it did as well on the spending side. The overall spending reductions of $2 billion in fiscal year 1988 and $3.5 billion in fiscal year 1989 are real. They are broadly based, and they hit the targets included in the budget agreement. No one enjoys being associated with any initiative that limits the availability of health care or income security provided by the Federal Government, but difficult times require difficult actions by public officials. The Medicare provisions approved by the Finance Committee were fashioned with attention to the most urgent needs of the elderly and disabled, and they are intended to achieve necessary reduction in expenditures without compromising the role of each program as the source of health care coverage for an increasing number of vulnerable Americans.

In meeting its spending targets, the Finance Committee retained the policy goals of the original reconciliation bill. Because it proceeded in this manner, the Finance Committee was able to assign priorities according to demonstrated need.

For example, our plan calls for a modest update in hospital payments, and we differentiate between the rural hospitals and the urban hospitals. We understand that the costs are higher in those rural hospitals, that they are having more and more trouble. In my own State, 23 rural hospitals closed, went broke, closed their doors, in the last 2 years. That is being repeated across the country.

We have tried to correct that imbalance in the funding of the urban and the rural hospitals in this process.

We were able to correct and fund overdue improvements in several programs, such as outpatient mental health programs for Medicare patients; Medicaid coverage of pregnant mothers and infants; and child care for low-income families. We bent over backward to be evenhanded in all parts of our plan.

I believe that we have produced a tax program that is as equitable as its spending side counterpart.

A key element in the agreement of the budget summiteers was the principle that spending reductions would be balanced against the revenue increases. The Finance Committee adhered to that principle by writing a no-frills tax program that is pure and lean.

We put the tax program together with broad bipartisan support. I very much appreciate the contributions

that came from both sides of the aisle; from the ranking member, Senator PACKWOOD, and from all the members of that committee; and I appreciate the unanimous vote that we finally had on that package. I also appreciate the contributions from the Reagan administration, as we struggled to keep things on track.

The Finance Committee knew that the tax provisions were going to have to travel some rough roads both on the Senate floor, and in the House-Senate conference. We also knew there was not much time available to us. So we reluctantly came to the conclusion that, on tax policy, we had to travel light, without the baggage of tax changes that would not reduce the deficit.

So we have before us a surprising new phenomenon this holiday season. We have a tax bill that did not become a Christmas tree. It is a clean tax bill, pure and lean.

We are going to be compelled to address technical corrections early next year, and we will be moving as early as possible in that regard. I know that many Members of this body have technical correction provisions that are dear to them and important to them, and we will dedicate our efforts to that task. But the present work of the Finance Committee is, on the revenue side, devoted exclusively to cutting the deficit by raising taxes. We have chosen to do this by tightening tax benefits, improving tax collections, and preventing taxes from expiring in a period of high deficits.

We have steered clear of sweeping changes in tax policy that could darken the economic prospects of any particular industry or any specific region of this country. We have also resisted the temptation of recommending to the Senate a long list of obscure tax reforms.

Our tax program is compact and rests on the ideas that have been a part of the deficit reduction debate for months. They have been out there cooking in the public view, so there should not be any surprises in this package. Not every tax provision is easy to understand, but tax provisions seldom are. Nonetheless, as a whole, they are well known enough and sufficiently few in number that most of the interested observers will be able to analyze them on their own.

I have already noted that no one likes to support a tax increase package, so I would remind you of what Oliver Wendell Holmes said in this regard at the turn of the century. He said, "Taxes are what we pay for a civilized society."

Eighty-three years later I hope I will be forgiven if I paraphrase a bit and say that the balanced, bipartisan tax bill before us today is what we pay to reduce a deficit that endangers our civilized society.

Mr. President, I ask unanimous consent that the text of Secretary Baker's letter of December 8 and the attendant technical explanations of the Finance Committee provisions be made part of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, DC, December 8, 1987.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to take a moment to compliment you and your Finance Committee colleagues for your expeditious and fair action on the revenue package reported on December 3, 1987. Without your leadership, judgment, and work we would not have taken this important bipartisan step toward the implementation of the budget summit agreement.

The Administration supports the Senate Finance Committee's reported revenue package as a sound method for raising the funds necessary to implement the summit agreement. It is consistent with both the letter and spirit of the agreement reached by the negotiators.

I must express our concern, however, about three items. First, we believe the freezing of the estate and gift maximum tax rates at current levels for a two-year period is unfortunate. It fails to complete the intended reform of this section of the tax law as first proposed by the President and enacted by the Congress in 1981.

Second, we believe it is most unfortunate that the Finance Committee deleted a feature of the Pension Benefit Guaranty Corporation (PBGC) reform proposal that would have limited companies' ability to burden the PBGC (and the companies that fund it) with shut-down benefits. While we certainly welcome the free negotiation of such benefits, we believe the PBGC safety net rules should encourage companies that grant such benefits to fund them as well—instead of passing the costs on to others.

Third, we believe the $300 million from the so-called refund offset provision adopted by the Committee should be included in the revenue totals. The budget agreement called for $9 billion of *gross* receipts. The fact that the Administration welcomes a provision that reduces tax refunds to people who will not pay back government loans does not justify ignoring the revenue gained.

As we stated from the start of the budget negotiations, our ultimate support depends, of course, on Congress carrying out its obligation to implement all of the agreed spending cuts. However, I wanted you to know that I appreciate your efforts to produce this package, Mr. Chairman. I am hopeful that the other committees will follow your example and promptly complete their work within the terms of our agreement so that the full Senate can adopt the implementing package as soon as possible. We stand ready to assist in the achievement of that objective.

Sincerely,

JAMES A. BAKER III.

FINANCE COMMITTEE SPENDING PROVISION AMENDMENTS (SUBMITTED FOR INCLUSION IN THE LEADERSHIP DEFICIT REDUCTION PACKAGE)

The Committee approved the following Medicare provisions. Unless noted otherwise, the effective dates in the original Committee bill and the amendments described below would generally be January 1, 1988.

MEDICARE PART A

1. *Hospital Prospective Payment System (PPS):* Effective January 1, 1988, urban hospital payment rates would be increased by 0.5 percent, rural hospital payment rates by 3.7 percent, and rates for PPS-exempt hospitals by 2.7 percent. The 3.2 percentage point differential between urban and rural hospitals created in the original Committee bill would be maintained.

2. *Hospital Capital:* Effective January 1, 1988, Medicare capital payments would be paid at reasonable cost minus twelve percent for the remainder of FY 1988 and for FY 1989. The moratorium on incorporating hospital capital into PPS would be extended from two years in the original Committee bill to four years.

3. *Direct Medical Education Payments for Foreign Medical Graduates:* Effective for cost reporting periods beginning on or after July 1, 1988, Medicare direct medical education payments for graduates of foreign medical schools (other than Canada) would be phased out. For most hospitals, payments would be reduced by one-third in the first year, and two-thirds in the second year and would be eliminated in the third year. For those hospitals in which more than half the interns and residents are foreign medical graduates, a longer transition would apply—payments would be reduced by one-third in each of the first two years, two-thirds in each of the following three years, and would be eliminated thereafter. The provision would not affect indirect medical education payments.

4. *Sole Community Hospitals:* As in the original bill, this provision would become effective October 1, 1987. Additional volume adjustment payments made available under the original Committee bill would be capped at $10 million in FY 1988 and $12 million in FY 1989.

5. *Rural Referral Centers:* The eligibility threshold for rural referral center status under PPS would be reduced to 3000 discharges per year, (from the current criterion of 5000 annual discharges), but only for rural hospitals with a case mix index that exceeds both the regional and national medians for urban non-teaching hospitals. The provision would be budget-neutral.

6. *Treatment of Certain Rural Hospitals as Urban Hospitals*: The original Committee provision allowing certain rural hospitals to be paid urban rates PPS would be modified, on a budget-neutral basis, to eliminate the wage-related criteria.

7. *Pacemaker Warranties*: Hospitals would be required to report the payments they obtain in connection with pacemaker replacements made under warranty. Medicare payments to the hospital would be reduced at the end of the year by the amount of such payments. The provision would be effective January 1, 1988.

MEDICARE PARTS A AND B

8. *Continuation of Sequester Through December 31, 1987*: The 2.324 percent reduction in Medicare payments under the sequester currently in effect would be extended through December 31, 1987, except that the reduction would continue through January 15, 1988 for physician services and durable medical equipment.

9. *Managing Contractor Restrictions*: The original Committee provision prohibiting the use of denial quotas by Medicare contractors would be modified to confirm the

authority of the Secretary of HHS to manage Medicare contractors effectively.

10. *Peer Review Organization Provisions*: The authority of the Office of Management and Budget to apportion funds for Medicare Peer Review Organizations would be eliminated. The on-site review requirements in the original Committee bill would be modified to limit the requirement to rural hospitals and reduce the percentage of on-site reviews from 50 to 20 percent.

11. *Medicare Health Maintenance Organization Provisions*:

a. HMOs would be required to guarantee continuation of certain supplemental coverage in the event they terminate operations under Medicare.

b. HMOs would be required to inform beneficiaries of the possibility that the HMO's participation in Medicare will not continue indefinitely.

c. The Prospective Payment Assessment Commission, in consultation with the Physician Payment Review Commission, would be required to appoint a task force on capitation payment reform.

d. Medicare would continue to pay HMOs for disabled enrollees as disabled enrollees after they attain age 65.

e. Authority for the benefit stabilization fund would be continued for two additional years.

f. The Secretary would be required to waive the 50-50 rule for Blue Care of Michigan and HIP of New York.

MEDICARE PART B

12. *Temporary Freeze on Payments for Physician Services and Durable Medical Equipment:* For the first three months of calendar year 1988, Medicare payment rates for physician services and durable medical equipment would be frozen at 1987 levels. (Except that, as noted above under Item 8, for the first fifteen days of January 1988, the 2.324 percent reduction in payment amounts under the sequester currently in effect would continue to apply to these payment amounts.) In addition, the maximum allowable actual charges in effect for 1987 would be frozen for the first three months of 1988. All participation agreements in effect on December 31, 1987, would continue through March 31, 1988, unless the physician or supplier requests that the agreement be terminated. The deadline for agreements to participate in Medicare in 1988 would be extended to March 31, 1988.

13. *Physician Payment Updates:* On April 1, 1988, customary charges for physicians would be updated. The update in prevailing charges would be zero percent, except for primary services as defined in the original Committee provision (office, home, nursing home and emergency room visits). The update for primary services would be 3.6 percent.

14. *Overpriced Procedures:* The list of overpriced procedures in the original Committee bill would be expanded to include cardiac pacemaker implantation. Effective April 1, 1988, prevailing charges for these procedures would be reduced on a sliding scale basis as in the original Committee bill, except that the maximum reduction would be increased to 15 percent.

15. *Clinical Lab Provisions:* Effective January 1, 1988, the fee schedules for clinical laboratories would be rebased to reflect a five percentage point reduction. The limit on fee schedules, effective on January 1, 1988, would be 100 percent of the national median and, effective January 1, 1989, would be reduced to no less than 95 percent of the national median. The Secretary of HHS would be authorized to apply intermediate sanctions to clinical laboratories that fail to meet Medicare standards.

16. *Part B Deductible:* Effective January 1, 1989, the Part B deductible would be increased from $75 to $85.

17. *Therapeutic Shoes:* Medicare coverage of therapeutic shoes would be implemented, as under the original Committee bill, but only if proven cost-effective by a demonstration project.

18. *Eye and Ear Hospitals:* The provision in the original Committee bill would be modified to include eye specialty hospitals as well as eye and ear specialty hospitals. In addition, the threshold for qualifying for the exemption from the current law transition scheduled to begin on October 1, 1988 would be reduced from 50 percent of outpatient procedure revenue to 30 percent of outpatient service revenue.

MEDICAID

19. *Infant Mortality:* The bill originally reported by the Committee would be modified to reduce eligibility income limits for pregnant women and infants up to age 1 from 185 percent to 160 percent of the federal poverty level. A monthly premium of $5.00 would be charged families with incomes between 130 percent and 160 percent of the federal poverty level. Expanded coverage of children meeting Aid to Families with Dependent Children (AFDC) income and asset standards, but not eligible for AFDC payments, would be modified to mandate coverage through age six. Coverage for children through age eight would be a State option.

20. *Nursing Home Quality:* The nursing home quality provisions included in the original Committee bill would be modified:

a. Authority to waive the nurse staffing requirements would be granted to the State (with the Secretary maintaining "look-behind" responsibility);

b. Minimum hours of nurse aide training would be reduced to 75 hours;

c. Persons with Alzheimer's disease or related disorders would be excluded from the preadmission screening requirements;

d. States would be required to submit State plan amendments detailing how payments would be adjusted to meet new requirements applied to nursing homes;

e. Nursing homes would be required to provide an activities program directed by a qualified professional; and

f. Other miscellaneous and technical changes would be made.

21. *Home and Community-Based Waivers:* New waiver authority provided under the original Committee bill would be modified to limit growth in annual spending on long-term care to 7, rather than 9 percent. The provision of the original Committee bill dealing with waivers awarded before March 1985 would be deleted.

22. *Respite Care:* Technical corrections related to the respite care pilot project in New Jersey would be included.

23. *Metropolitan HMO:* The six-month lock-in guarantee currently authorized for Federally qualified HMOs would be authorized for the Metropolitan Health Plan HMO operated by the New York City public hospitals.

24. *Spousal Impoverishment:* The section relating to spousal impoverishment included in the original Committee bill would be deleted.

25. *Medicaid Cap for Puerto Rico and Territories:* The provision increasing the Medicaid cap for Puerto Rico and the Territories included in the original Committee bill would be deleted.

INCOME SECURITY AND SOCIAL SERVICES

26. *Personal Needs Allowance for SSI Recipients:* The original Committee bill would have increased the personal needs allowance for Supplemental Security Income recipients who are in Medicaid institutions by $5 a month (from $25 to $30), effective January 1, 1988. The effective date of the provision would be delayed for 6 months, to July 1, 1988.

27. *Increase in Funding for Title XX:* The entitlement cap for the title XX social services program is increased by $50 million for FY 1988, from $2.7 billion to $2.750 billion. The original Committee bill had provided for an increase of $100 million for FY 1988.

28. *Assistance to Homeless AFDC Families:* The Secretary of Health and Human Services would be prohibited from taking any action (by regulation or otherwise) to prevent a State, prior to October 1, 1988, from meeting the needs of homeless families with children as part of its AFDC "special needs" program. Amounts for shelter and related needs may vary according to geographic location, family circumstance, or the type of living accommodation occupied.

SENATE FINANCE SPENDING PROGRAMS—ADMINISTRATION ESTIMATES

[Outlays in millions,[1] provisions changed from original finance bill noted with an asterisk]

	Fiscal year 1988	Fiscal year 1989
Medicare Part A:		
Cash flow: eliminate PIP for disp. share	0	(480)
Indirect medical education*	(340)	(550)
Prospective payment system update*	(410)	(430)
Capital payments reduction*	(180)	(110)
Sole community hospital increase*	10	12
Phase out payment for foreign med. grads*	(5)	(40)
Extend GRH through 12/31/87*	(120)	0
Medicare Parts A and B:		
Cash flow: Payment cycle floors	(530)	(190)
NHSC loan collection	(12)	(16)
Payment safeguard add-on	10	10
Minor provisions*	1	5
Peer review organization requirements*	5	20
Medicare Part B:		
Payments for new physicians	(30)	(90)
Outpatient radiology	0	(40)
Eliminate ROE for outpatient departments	(20)	(40)
Increase mental health limit to $1,100	50	90
Bonus for rural physicians	0	5
More coverage of physician assistants	0	0
Part B premium extension [1]	0	(860)
Medicare economic index and MD prices*	(180)	(380)
Overpriced physician procedures*	(20)	(50)
Durable medical equipment (DME)*	(30)	(50)
Clinical lab limits*	(100)	(190)
Change part B deductible to $85 in FY89*	0	(130)
Therapeutic shoes*	0	0
Extend GRH through 12/31/87 for all part B, through 1/15/88 for physicians and DME*	(100)	0
Total Medicare	(2,001)	(3,504)
Medicaid:		
Nursing home quality*	6	95
Infant mortality*	0	155
HCBW revisions*	0	0
Quality control moratorium and other	13	(13)
Income Security:		
Title XX (social services)*	48	2
Infant foster care	5	6
Personal needs allowance*	3	13
Other	1	3
Total net entitlement savings	(1,925)	(3,243)

[1] Estimates reflect changed effective dates and interactions within the Medicare program. Gross spending estimates are reflected for Part B provisions. Premium effects of all Part B items is reflected in the Part B premium estimate.

SUBTITLE B: DESCRIPTION OF REVENUE PROVISIONS

A. ACCOUNTING PROVISIONS

1. Repeal of Vacation Pay Reserve (sec. 4501 of the bill [1] and sec. 463 of the Code)

Present Law

Under present law, an accrual method taxpayer generally is permitted a deduction for the taxable year in which all the events have occurred that determine the fact of a liability and the amount thereof can be determined with reasonable accuracy (the "all events" test). In determining whether an amount has been incurred with respect to any item during the taxable year, all events that establish liability for such amount are not treated as having occurred any earlier than the time economic performance occurs (sec. 461(h)). With respect to a liability that arises as a result of another person's providing services to the taxpayer (such as the liability to provide vacation pay in exchange for services by an employee), economic performance generally occurs when such other person provides the services.

In order to ensure the proper matching of income and deductions in the case of deferred benefits (such as vacation pay earned in the current taxable year, but paid in a subsequent year) for employees, an employer generally is entitled to claim a deduction for the taxable year of the employer in which ends the taxable year of the employee in which the benefit is includible in gross income (sec. 404(b)). This rule applies to deferred benefits without regard to the economic performance rules. Consequently, an employer is entitled to a deduction for vacation pay for the taxable year of the employer in which ends the earlier of the taxable year of the employee for which the vacation pay (1) vests (if the vacation pay plan is funded by the employer), or (2) is paid.

An exception to this rule applies to amounts that are paid within 2½ months after the close of the taxable year of the employer in which the vacation pay is earned. Such amounts are not subject to the deduction-timing rules applicable to deferred benefits, but are subject to the general rules under which an employer is entitled to a deduction when economic performance occurs (i.e., when the services of the employee for which vacation pay is earned are performed). Amounts paid within 2½ months after the close of the employer's taxable year in which the all events test and the economic performance requirement are satisfied generally will be deductible for the such taxable year even though the employee does not include the benefit in income for such taxable year.

Under a special rule of present law, an employer may make an election under section 463 to deduct an amount representing a reasonable addition to a reserve account for vacation pay (contingent or vested) that is paid during the current taxable year or within 8½ months after the close of the taxable year of the employer with respect to which the vacation pay was earned by the employees.

Reasons for Change

The special rules under present law relating to the reserve for accrued vacation pay create a disparity in tax treatment between accrued vacation pay and other deferred benefits. The timing of deductions for vacation pay should not be more favorable than the timing of deductions for other deferred benefits.

Explanation of Provision

The special rule that permits taxpayers a deduction for additions to a reserve for vacation pay would be repealed. Accordingly, under the amendment, deductions for vacation pay generally would be allowed in any taxable year for amounts paid during the year plus vested vacation amounts paid or funded within 2½ months after the end of the year.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1987. A change from the reserve method of accounting for vacation pay to the method required by the amendment is treated as a change in method of accounting that is initiated by the taxpayer and made with the consent of the Secretary of the Treasury. The net amount of the adjustment required by the change in method of accounting is required to be taken into account over a period not to exceed 4 taxable years. The amendment specifies the percentage of the adjustment that is required to be taken into account for each taxable year in the 4-year period. If Rev. Proc. 84-74, 1984-2 C.B. 736, would require the adjustment to be taken into account over a period of less than 4 taxable years, the adjustment is to be taken into account ratably over the shorter period.

2. Repeal of Installment Method for Dealers (sec. 4502 of the bill and secs. 453, 453A, and 453C of the Code)

Present Law

Under present law, a taxpayer who sells property ordinarily must recognize gain or loss at the time of the sale. However, a taxpayer who is eligible to use the installment method may defer the payment of tax and recognize gain from a sale of property in proportion to the payments received.

In general, the installment method may be used to report gain from the sale of personal property by dealers in personal property who regularly sell on the installment plan or from the sale of other property where at least one payment is to be made after the end of the taxable year of the sale.

Under the installment method, in any taxable year, a taxpayer recognizes income resulting from a disposition of property equal to an amount that bears the same ratio to the payments received in that year that the gross profit under the contract bears to the total contract price ("the gross profit ratio"). Payments taken into account for this purpose generally include cash or other property (including foreign currency and obligations of third parties), marketable securities, certain assumptions of liabilities, and evidences of indebtedness of the purchaser that are payable on demand or are readily tradable.

Use of the installment method generally is limited under the socalled "proportionate disallowance rule" for dealer sales of real property and dealer sales of personal property eligible to be reported on the installment method, as well as for sales of real property used in the taxpayer's trade of business or held for the production of rental income where the selling price of such real property is greater than $150,000. Under the proportionate disallowance rule, a pro rata portion of the taxpayer's indebtedness is allocated to, and is treated as a payment on, the installment obligations of the taxpayer.

Use of the installment method is not allowed for sales pursuant to a revolving credit plan and for sales of publicly traded property. In addition, the installment method may not be used for purposes of the alternative minimum tax for sales that are subject to the proportionate disallowance rule.

At the election of the seller, installment obligations arising from certain sales of residential lots and "timeshares" are not subject to the proportionate disallowance rule. Rather, such taxpayers may compute their tax liability under the installment method and are required to pay interest on the amount of deferred tax attributable to the use of the installment method. In addition, the installment method may be used for purposes of the alternative minimum tax for sales of residential lots and "timeshares" if interest is paid on the amount of the deferred tax.

Reasons for Change

In general, the underlying reason for allowing the reporting of gain on the installment method for Federal income tax purposes is that the seller may be unable to pay tax currently because no cash may be available until payments under the installment obligation are received. It is believed that dealer sales of property for notes or accounts receivable do not create the significant cash-flow problems that the installment method is designed to alleviate because a dealer generally is able to finance receivables. The repeal of the installment method for dealer sales will end the ability of a dealer to defer tax on a sale of property by taking back a note or account receivable that is payable in a future year.

Explanation of Provision

The amendment repeals the installment method for dispositions of property by dealers ("dealer dispositions") effective for dispositions occurring after December 31, 1987. Generally, all payments to be received from a dealer disposition of property are treated as received in the year of disposition.

A dealer disposition is defined for purposes of the repeal of the installment method as any disposition of personal property by a person who regularly sells or otherwise disposes of property on the installment plan. A dealer disposition also includes any disposition of real property that is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business. A dealer disposition does not, however, include certain dispositions of residential lots or "timeshares" if the taxpayer elects to pay interest on the amount of deferred tax attributable to the use of the installment method. Additionally, a dealer disposition does not include a disposition of property used or produced in the trade or business of farming.

The installment method rules applicable to dispositions of residential lots or "timeshares" with respect to which interest is paid or dispositions of property used or produced in the trade or business of farming are not affected by the amendment. Thus, a disposition of such property on the installment plan will be subject to the current rules applicable to dealers using the installment method.

Effective Date

The repeal of the installment method for dealer dispositions is effective for dispositions occurring after December 31, 1987. The treatment of an installment obligation arising out of a dealer disposition occurring before March 1, 1986, is not affected by this provision.

[1] In the headings throughout this explanation, section citations to the bill refer to the bill as it would be amended by the leadership amendment.

An applicable installment obligation arising out of a dealer disposition occurring after February 28, 1986, and before January 1, 1988, is subject to the proportionate disallowance rule for taxable years ending after December 31, 1986, and beginning before January 1, 1988. Any gain from an installment obligation arising out of a dealer disposition occurring after February 28, 1986, and before January 1, 1988, that remains to be recognized as of the first day of the first taxable year beginning after December 31, 1987, is not to be recognized as payments are received (or treated as received under the proportionate disallowance rule) in a later taxable year. Instead, the amount of the gain that remains to be recognized from such installment obligations is to be taken into account as a section 481(a) adjustment. The amount of the section 481(a) adjustment is to be taken into account under the principles of Rev. Proc. 84-74, 1984-2 C.B. 736, but the adjustment period generally is 4 taxable years rather than 6 taxable years. In determining the period that the adjustment is to be taken into account, the application of the proportionate disallowance rule is not to be treated as a new method of accounting.

The amendment does not affect the transition relief provided at the time the proportionate disallowance rule was enacted.

3. Treatment of Past Service Pension Costs Under Uniform Capitalization Rules (sec. 4503 of the bill and sec. 263A of the Code)

Present Law

In general, uniform capitalization rules govern the inclusion in inventory or capital accounts of all costs incurred in manufacturing, construction, and other types of activities involving the production or real or tangible personal property, or incurred in acquiring or holding property for resale. In the legislation mandating a uniform set of capitalization rules, Congress directed the Treasury Department to model the regulations implementing these rules after the regulations issued under section 451, dealing with capitalization of costs in connection with extended period long-term contracts.

The extended period long-term contract regulations require capitalization of all direct costs and an allocable portion of indirect costs such as general and administrative and overhead costs. Temporary and proposed regulations issued by the Treasury Department provide that contributions to a pension or annuity plan are not subject to the uniform capitalization rules to the extent they represent past service costs within the meaning of section 412 (containing rules for actuarial funding of pension plans).[2] Such costs are subject to other limitations in the Code, currently deductible. If the taxpayer's actuarial funding method does not distinguish between current and past service costs, all pension costs must be treated as current service costs, which are subject to capitalization.

Reasons for Change

For purposes of the uniform capitalization rules, pension costs incurred by a taxpayer that are deemed to relate to past services under the Code's actuarial funding rules should be treated in the same manner as costs deemed to relate to current services. Both types of costs are costs that are necessarily recovered out of the proceeds from the sale of property produced or held in the year the costs are incurred. Thus, consistent with the uniform capitalization rules' objective of matching expenses with the related income, past as well as current service costs should be subject to capitalization.

Explanation of Provision

Under the amendment, past service loss will be subject to the uniform capitalization rules. Thus, an allocable portion of all otherwise deductible pension costs, whether relating to current or past services, will be included in the basis of the property that is produced or held for resale.

Effective Date

The provision will apply to taxable years beginning after December 31, 1987. The amount of any section 481 adjustment required by the amendment (that is, the adjustment reflecting pension costs deducted by a taxpayer in taxable years beginning before January 1, 1988) must be included in income over a period not exceeding four years.

4. Certain Farm Corporations Required to Use the Accrual Method of Accounting (sec. 4504 of the bill and sec. 447 of the Code)

Present Law

Entities engaged in the trade or business of farming generally may use the cash method of accounting for such trade or business. A corporation, or a partnership with a C corporation as a partner, that has gross receipts in excess of $1 million for any taxable year beginning after 1975 must use an accrual method of accounting, unless it is a "family corporation" (sec. 447). In general, a "family corporation" is a corporation 50 percent or more of whose stock is owned by members of the same family (sec. 447(c)(2)). Certain closely-held corporations substantially owned by two or three families on October 4, 1976, and at all times thereafter also qualify as a "family corporation" (sec. 447(h)).

A tax shelter engaged in the trade or business of farming may not use the cash method of accounting, regardless of whether or not it also is a "family corporation."

Reasons for Change

It is felt that any corporation, or partnership with a C corporation as a partner, that is engaged in the trade or business of farming and that has gross receipts in excess of $25 million should be required to use the accrual method of accounting. It is believed that an accrual method of accounting will more accurately reflect the income of such an entity; and that such large entities, whether closely held or not, are sufficiently sophisticated to keep their books and records using an accrual method.

Explanation of Provision

In general

A family corporation is required to use an accrual method of accounting unless, for each prior taxable year beginning after December 31, 1985, such corporation (and any predecessor corporation) did not have gross receipts exceeding $25 million. Gross receipts for any taxable year which is a year of less than 12 months must be annualized in order to determine if they exceed $25 million. A family corporation includes those family-owned corporations and those closely held corporations that are not required by present law to use the accrual method of accounting, regardless of size (sec. 447(c)(2) and sec. 447(h) of present law).

Attribution rules

In determining the amount of gross receipts of a family corporation, certain attribution rules apply. In the case of a family corporation that is part of a controlled group (within the meaning of sec. 1563(a)), a percentage of the gross receipts for the taxable year of other members of such controlled group may be allocated to the family corporation. The percentage used in allocating such gross receipts is equal to the percentage of the fair market value of stock in such other member held directly or indirectly by the family corporation on the last day of the taxable year of such other member. For this purpose, stock excluded under section 1563(c) is not considered.

For example, a father and his son own 100 percent of Corporation A (a family corporation) and 60 percent of Corporation B. Corporation A owns an additional 20 percent of Corporation B. The remaining 20 percent of Corporation B is held by an unrelated party. Corporation A and Corporation B are members of the same controlled group. Eighty percent (20 percent direct ownership and 60 percent indirect ownership) of the gross receipts of Corporation B will be included with the gross receipts of Corporation A for the purpose of determining whether Corporation A has gross receipts in excess of $25 million.

It is not intended that the attribution of gross receipts from one member of a controlled group to another member result in such receipts being taken into account more than once. It is anticipated that the Secretary of the Treasury will issue regulations accomplishing this result. For example, assume that Corporation A in the example in the preceding paragraph sells a calf to Corporation B for $100. Corporation B feeds the calf and sells it to unrelated parties for $250. The gross receipts of Corporation B attributable to Corporation A from this transaction would be 80 percent of the difference between $250 and $100, since the $100 of receipts attributable to that stage of the calf's development while held by Corporation A already is being taken into account in the gross receipts of Corporation A.

If a family corporation owns, directly or indirectly, any interest in a partnership, estate, trust, or other pass-through entity, the family corporation must take into account its proportionate share of the gross receipts of such a pass-through entity in determining the gross receipts of the family corporation.

Suspense account

If any family corporation is required by this provision to change its method of accounting, such corportion shall not be required to take into income so much of the adjustment under section 481 as is used to establish the opening balance of a suspense account. The initial opening balance of the suspense account is the lesser of the net adjustment that otherwise would have been required to be taken into account under section 481 as of the beginning of the year of change or the amount of such net adjustment determined as if the change were made as of the beginning of the preceding taxable year. The portion of the adjustment under section 481 that is not used to establish the suspense account is taken into income in the year of change.

For example, a calendar year family corporation is required to change to the accrual method of accounting effective for its taxable year beginning January 1, 1988. The net adjustment under section 481 as of January 1, 1988 is $100,000. The net adjustment under section 481 as of January 1, 1987 was $95,000. The opening balance of the sus-

[2] Temp. and Prop. Reg. sec 1.263A-1(b)(2)(v)(H)(1).

pense account will be $95,000 and $5,000 ($100,000-$95,000) will be required to be included in income in the taxable year beginning January 1, 1988.

The amount placed in the suspense account is required to be taken into income upon the occurrence of certain events. If the taxpayer fails to meet the definition of a family corporation, the amount of the suspense account is to be taken into income in the taxable year in which the corporation ceases to be a family corporation. Also, if the gross receipts of the corporation attributable to farming for any taxable year decline to an amount below the gross receipts attributable to farming for the last taxable year for which the cash method of accounting was allowed, a portion of the suspense account may be taken into income.[3] The portion to be taken into income is equal to the current balance of the suspense account multiplied by a fraction the numerator of which is the gross receipts for the current taxable year and the denominator of which is the lesser of (a) the gross receipts of the taxpayer for the taxable year preceding the year of change or (b) the gross receipts for the most recent year in which a portion of the suspense account was taken into income under this rule.

Effective Date

The provision is effective for taxable years beginning after December 31, 1987.

B. ESTIMATED TAX PROVISIONS

(Secs. 4511-4513 of the bill, sec. 1541 of the Reform Act, and secs. 3402, 6654, and 6655 of the Code)

1. Corporate Estimated Tax Reform (sec. 4511 of the bill)

Present Law

Under present law, a corporation that fails to pay an installment of estimated income tax on or before the due date generally is subject to a penalty computed at the rate of interest for tax underpayments. The penalty may not be waived. The penalty is computed by applying the underpayment interest rate to the amount of the underpayment of the installment for the period of the underpayment. The amount of the underpayment is the difference between the payments made on or before the due date of each installment and 90 percent of the total tax shown on the return for the year, divided by the number of installments that should have been made. The penalty on underpayments of estimated tax that are between 80 percent and 90 percent of the actual tax due is imposed at three-quarters of the full rate.

There are three exceptions to the penalty. No penalty is imposed upon a corporation if total tax payments for the year equal or exceed installments based on (1) the preceeding year's tax liability, if a return showing a liability for tax was filed for the preceding year; (2) the tax computed by using the facts shown on the prior year's return under the current year's tax rates; or (3) 90 percent of the taxes which would be due if certain income already received during the current year was annualized. Large corporations may not use exceptions (1) and (2) described above. A large corporation is defined as a corporation having at least $1 million of taxable income in any of the three prior taxable years. No penalty is imposed where the tax is less than $40.

[3] For this purpose, gross receipts from taxable years of less than 12 months will be annualized.

Reasons for Change

Although the individual estimated tax rules were consolidated and simplified in 1984, no similar consolidation and simplification was done for the corporate estimated tax rules; it is appropriate to do so at this point. Also, because of the difficulties many large corporations experience in computing accurately their estimated tax payments for the first quarter, it is appropriate to provide for them for that quarterly payment the same safe harbor that is currently available to small corporations.

Explanation of Provision

The amendment consolidates all the corporate estimated tax rules into one section of the Code, similar to the provision enacted for individuals in 1984. Also, several modifications are made to present law.

The underpayment penalty with respect to any installment applies to the difference between payments made by the due date of the installment and the lesser of an installment based on (1) 90 percent of the tax shown on the return; or (2) 100 percent of the tax shown on the preceding year's return. As under present law, exception (2) generally does not apply to a large corporation, except that a large corporation can use that exception for purposes of making its first estimated tax payment for any taxable year. Thus, both large and small corporations may base their first estimated tax payment of any taxable year upon 100 percent of the tax shown on the preceding year's return. A special transition rule provides that, for taxable years beginning in 1988 only, a large corporation can use that exception for purposes of making its first and second estimated tax payments. In determining whether a coporation is a large corporation (i.e., whether its taxable income exceeds $1 million), net operating loss and capital loss carryforwards and carrybacks are disregarded. The safe harbor based on the previous year's facts and the current year's rates is eliminated.

In addition, the full rate of the penalty is imposed with respect to any payment only to the extent the total payments for the year up to the required installment are below 90 percent of the taxes which would be due if the income already received during the current year was placed on an annual basis. Thus, the "cliff" effect of the penalty under present law is eliminated. Additionally, the reduced rate of the penalty for underpayments that are between 80 and 90 percent is eliminated. Any reduction in an estimated tax payment or payments resulting from using the annualization exception must be made up in the next payment in that taxable year for which the corporation does not use the annualization exception.

Finally, no penalty is imposed if the tax for any taxable year is less than $500.

Effective Date

This provision applies to taxable years beginning after December 31, 1987.

2. Revised Withholding Certificates Required to be Put Into Effect More Promptly (sec. 4512 of the bill)

Present Law

If an employee furnishes to his or her employer a withholding allowance certificate (Form W-4 or W-4A) that replaces an existing certificate, the employer must make the certificate effective no later than the first status determination date that is at least 30 days after the date the employee furnishes the certificate to the employer. The status determination dates are January 1, May 1, July 1, and October 1 of each year. For example, if an employee furnishes a replacement withholding allowance certificate to his or her employer on June 2, the employer must make that certificate effective no later than October 1.

Employers may elect to make replacement certificates effective earlier than they are required to statutorily; most employers elect to do so.

Reasons for Change

It is appropriate to reduce the amount of time before a replacement withholding certificate must become effective.

Explanation of Provision

Employers will be required to give effect to replacement withholding allowance certificates (Form W-4 or W-4A) no later than the start of the first payroll period ending on or after the thirtieth day after the day on which the employee furnishes the certificate to the employer. Employers are permitted to continue to elect to give effect to replacement withholding allowance certificates on any date between the date it is furnished by the employee and the statutorily mandated effective date.

Effective Date

The provision applies to replacement withholding allowance certificates furnished after the day 30 days after the date of enactment of the bill.

3. Estimated Tax Penalties for 1987 (sec. 4513 of the bill)

a. Delay of increase in current year liability test for individuals

Present Law

Individuals owing income tax who do not make estimated tax payments are generally subject to a penalty (Code sec. 6654). In order to avoid the penalty, individuals must make quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 90 percent of the current year's tax liability. Amounts withheld from wages are considered to be estimated tax payments.

The Tax Reform Act of 1986 increased from 80 to 90 percent the proportion of the current year's tax liability that taxpayers must pay to avoid the penalty. This was effective for taxable years beginning after December 31, 1986.

Reasons For Change

It is appropriate to modify the estimated tax rules for individuals for 1987, due to the difficulties a number of individuals had with Form W-4 and with other provisions of the 1986 Act.

Explanation of Provision

The amendment delays for one year this increase from 80 to 90 percent. Thus, for taxable years beginning before January 1, 1988, individuals may avoid the estimated tax penalty by making quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 80 percent of current year's tax liability. For taxable years beginning after December 31, 1987, individuals may avoid the estimated tax penalty by making quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 90 percent of the current year's tax liability.

Effective Date

The increase from 80 to 90 percent is effective for taxable years beginning after December 31, 1987 (instead of taxable years beginning after December 31, 1986).

b. Corporations may use 1986 tax to determine certain estimated tax installments due before July 1, 1987

Present Law

No estimated tax penalty is imposed upon a corporation with respect to any installment if that installment plus all prior installments for the year are based on the lesser of (1) the preceding year's tax liability, if a return showing a liability for tax was filed for the preceding year; (2) the tax computed by using the facts shown on the prior year's return under the current year's tax rates; or (3) 90 percent of the taxes which would be due if certain income already received during the current year were placed on an annual basis. Large corporations may not use exceptions (1) and (2) described above. A large corporation is defined as a corporation having at least $1 million of taxable income in any of the three prior taxable years.

Present law does not give explicit authority to the Treasury to provide alternative estimated tax rules for corporations.

The Treasury has issued regulations, applicable to estimated tax payments due before July 1, 1987, that permit corporations to base those estimated payments on 120 percent of 1986 taxable income with certain modifications.

Reasons for Change

Because of the numerous changes made by the Tax Reform Act of 1986, some corporations had difficulty in accurately computing their estimated tax payments for the first part of 1987. Therefore, it is appropriate to modify the estimated tax penalties for those payments.

Explanation of Provision

Two safe harbors are provided for corporate estimated tax payments due before July 1, 1987. First, all corporations, including large corporations, are permitted to base those estimated tax payments on 100 percent of the 1986 tax liability. Second, statutory authorization is provided for the safe harbor provided in the Treasury regulations.

Under the first safe harbor, no penalty for the underpayment of estimated tax for a taxable year beginning in 1987 will be imposed on a large corporation (as defined in sec. 6655(i)(2) of the Code) for any payment due on or before June 15, 1987, if the corporation's estimated tax payments meet the present law requirements (of sec. 6655(d)(1)) applicable to other corporations allowing payments to be based on the tax shown on the prior year's return. Thus, large corporations are expressly authorized to utilize the estimated tax safe harbor of paying the preceding year's tax liability for estimated tax installments for taxable year 1987 due on or before June 15, 1987. A corporation may take advantage of this rule only to the extent that the underpayment of estimated tax is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987. This relief is available for the first two payments of a calendar year corporation and for the first payment of a fiscal year corporation whose taxable year begins on or before March 1, 1987.

Thus, a calendar year corporation may avoid an estimated tax penalty by making the April 15 and June 15 installments based on 100 percent of the preceding year's liability and by making the September 15 installment based on 90 percent of the current year's tax liability (and by paying any shortfall from prior payments attributable to the difference between the 100 percent test and the 90 percent test as part of the September 15 installment).

Effective Date

The provisions are effective for corporate estimated tax installments for 1987 that were due before July 1, 1987.

C. CORPORATE TAX PROVISIONS

1. Certain Earnings and Profits Adjustments Not To Apply For Certain Purposes (Overrule "Woods Investment Co.") (Sec.4521 of the bill and secs. 1503 and 301(f) of the Code)

Present Law

In general, an affiliated group of corporations may elect to file a consolidated return, that aggregates the income and deductions of the common parent and its subsidiaries. An affiliated group generally includes a domestic corporation and its domestic subsidiaries connected in a chain of at least 80-percent ownership. The Code grants the Treasury Department broad authority to use regulations governing the computation of the tax liability of an affiliated group of corporations filing a consolidated return.

In 1966, the Treasury Department issued revised consolidated return regulations requiring adjustment of a parent corporation's basis in the stock of a subsidiary by reference to changes in the earnings and profits of the subsidiary. The regulations require a parent corporation to increase its basis in the stock of a subsidiary by the amount of the undistributed net earning and profits of the subsidiary for the taxable year, and to reduce its basis in such stock by the amount of any deficit in earnings and profits, among other adjustments. At the time these regulations were issued, differences between earnings and profits and taxable income were essentially permanent as opposed to timing differences. The result was that adjustments to basis of the assets of a subsidiary were reflected immediately as adjustments to the parent corporation's basis in the stock of the subsidiary.

Subsequently, Congress enacted amendments to the provisions of the Code defining earnings and profits. As a result of these amendments, certain deferral amounts affected earnings and profits at a different rate than they affected a corporation's taxable income. For example, earnings and profits were reduced only by the amount of straight-line depreciation, even though accelerated depreciation was used for purposes of computing taxable income. Similarly, gain reported on the installment method and income reported under the completed contract method were included in earnings and profits at a faster rate than for taxable income purposes.

The purpose of these amendments to the definition of earnings and profits was to prevent corporations with economic profits from making distributions to individual shareholders that would otherwise constitute tax-free returns of capital, or capital gains taxed at a preferential rate, to the shareholder. In a consolidated return context, however, the effect of applying these amendments in computing basis adjustments was to create a disparity between the rate at which these items reduced or increased a parent's basis in the stock of its subsidiary and the rate they reduced or increased the group's consolidated taxable income. Because of these earnings and profits adjustments, a parent corporation could sell stock in a subsidiary and recognize an artificially reduced gain, or an artificial loss.

In *Woods Investment Co.* v. *Commissioner*, 85 T.C. 274 (1985), the Tax Court rejected the Internal Revenue Service's argument that the taxapayer should not be allowed to apply these amendments for purposes of computing basis adjustments because the effect was to allow the taxpayer a double deduction. The court held the Service was bound by a literal application of the statutory definition of earnings and profits and its own regulations requiring basis adjustments based on earnings and profits. The Service subsequently announced that it would not appeal this decision and would not reassert the position taken in *Woods* against other taxpayers (Announcement 86-32). It nonetheless took the position that its position in *Woods* was correct, and stated that it was considering modification of the consolidated return regulations to prevent understatement of gain in that situation and other situations.

A similar issue arises in a consolidated return context where an insolvent subsidiary realizes cancellation of indebtedness income. The earnings and profts of the subsidiary may be increased by the amount of such income, even though the income is excluded from the subsidiary's taxable income. If so, the parent corporation's basis in the stock is increased (or its "excess loss account" or negative basis is reduced) by an amount that has not been reflected in consolidated taxable income.

A benefit similar to that at issue in the *Woods* case may exist where the distributor and distributee do not file a consolidated return.

Special rules prevent the occurrence of these distortions in certain circumstances.[4] If a 20-percent or more corporate shareholder receives a distribution from another corporation that would otherwise qualify for the dividends received deduction, the taxable income of the shareholder (and its adjusted basis in the stock of the distributing corporation) is determined by ignoring certain adjustments otherwise required in determining the earnings and profits of the distributing corporation (see. 301(f)). That is, the earnings and profits treatment of the items is conformed to the taxable income treatment. These special conformity rules do not apply, however, to depreciation.

Reasons for Change

The present consolidated return regulations, as applied in the *Woods* case, confer an unwarranted and unintended tax benefit. Under present law, the adjustment in the basis of a subsidiary's stock fails to account for the tax benefits realized by the consolidated group during the subsidiary's affiliation and also fails to require the group to pay tax on the economic profit received when a subsidiary is sold. The purpose of the statutory changes to the earnings and profits provisions was to ensure that distributions of economic profits that exceeded taxable income would be taxed to individual shareholders as dividends. Providing a corresponding basis adjustment for purposes of determining gain or loss on a sale of the stock is inappropriate.

The provision of present law modifying the definition of earnings and profits in the case of distributions to 20-percent or more corporate shareholders should appropriate-

[4] It is unclear whether and to what extent these special rules apply in a consolidated return context, but it is understood that taxpayers generally take the position they do not.

ly apply to depreciation as well as to the items specified in section 312(n).

Explanation of Provision

Under the amendment, solely for purposes of determining gain or loss on disposition, a parent corporation's basis in the stock of a subsidiary with which it files a consolidated return is to be determined by computing earnings and profits of the subsidiary without regard to sections 312 (k) and (n) or any prior corresponding provision. Thus, the parent's basis for purposes of determining gain or loss on disposition of the stock will be computed as if, throughout the period of the subsidiary consolidation with the parent, the subsidiary's earnings and profits had been computed without regard to the special adjustments for depreciation and other items.[5]

In addition, the amendment provides that earnings and profits for this purpose does not include any cancellation of indebtedness income of the subsidiary excluded under section 108 to the extent such income did not reduce basis of property or other tax attributes. No inference is intended as to prior law.

Finally, the amendment expands the provision modifying the definition of earnings and profits in the case of distributions to a 20-percent or more corporate shareholder to include adjustments for accelerated depreciation. It is intended that this provision (sec. 301(f)) will apply only where the distribution is between corporations not filing a consolidated return.

Effective Date

The amendment to the rules relating to adjustments in the stock in a consolidated subsidiary generally applies to stock disposed of after October 15, 1987. However, the amendment does not apply to dispositions pursuant to a written contract binding on October 16, provided the disposition is completed before January 1, 1989. The computation of gain or loss on dispositions subject to the provision will thus be computed taking into account the principles of the amendment during the entire period the subsidiary filed a consolidated return with the selling corporation, regardless of whether the subsidiary filed a consolidated return with the selling corporation in the year of the disposition or was eligible to do so.

The amendment to section 301(f) generally applies to distributions after October 15, 1987. However, the amendment does not apply for purposes of determining gain or loss on a disposition of the stock, in the case of dispositions pursuant to a written contract binding on October 16, provided the disposition is completed before January 1, 1989. For purposes of determining the earnings and profits after October 16 in the case of dispositions subject to the amendment, the amendment is deemed to have been in effect for all prior periods, whether before, on, or after that date. However, the amendment does not affect the determination whether any distribution on or before October 16, 1987, was a dividend, or the amount of any reduction in accumulated earnings and profits on account of any such distribution.

[5] These modifications to the rules for determining earnings and profits for investment adjustment purposes are not intended to affect the authority of the Treasury Department to require in the consolidated regulations that earnings and profits (computed under the general rules of section 312) be deemed distributed up the entire chain of affiliated corporations to the common parent on an annual basis.

2. Benefits of Graduated Corporate Rates Not Allowed To Personal Service Corporations (sec. 4522 of the bill and sec. 11 of the Code)

Present Law

Under present law, corporations are subject to a tax at the rate of 34 percent. However, for corporations with taxable income below $335,000, graduated rates are provided. These rates are 15 percent on taxable income not over $50,000, and 25 percent on taxable income over $50,000 but not over $75,000, with the benefits of these lower rates phased out as taxable income increases from $100,000 to $335,000.

Reasons for Change

The personal service income of corporations owned by its employees is taxed to the employee-owners at the individual graduated rates as it is paid out as salary. It is inappropriate to allow the retained earnings to be taxed at the lower corporate graduated rates.

Explanation of Provision

The taxable income of a personal service corporation (as defined in section 448(d)(2) relating to the cash method of accounting) will be taxed at a flat rate of 34 percent. For this purpose, a personal service corporation is a corporation substantially all the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and substantially all the stock of which is held by the employees performing services for the corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1987.

D. PARTNERSHIP PROVISIONS

1. Treatment of Publicly Traded Partnerships Under the Passive Loss Rule (sec. 4531 of the bill and sec. 469 of the Code)

Present Law

Under present law, deductions from passive trade or business activities (within the meaning of the passive loss rule (sec. 469)), to the extent they exceed income from such passive activities, generally may not be deducted against other income. Similarly, credits from passive activities generally are limited to the tax attributable to the passive activities. Suspended losses and credits are carried forward and treated as deductions and credits from passive activities in the next year. Suspended losses from an activity are allowed in full when the taxpayer disposes of his entire interest in the activity.

Income from passive activities does not include income such as compensation for services or portfolio income (including interest, dividends, royalties, annuities, and gains from the sale of property held for investment. For this purpose, property held for investment generally does not include an interest in a passive activity.

A passive activity generally is an activity involving the conduct of a trade or business in which the taxpayer does not materially participate. Present law provides that, except as provided in regulations, no interest in a limited partnership as a limited partner is treated as an interest with respect to which the taxpayer materially participates. Present law also provides Treasury regulatory authority to issue regulations requiring net income or gain from a limited partnership to be treated as not from a passive activity. Thus, except to the extent that the Treasury Department may provide in regulations, income from limited partnerships, including publicly traded limited partnerships, may be offset by passive losses from other sources.

Reasons for Change

It is believed that the return on investment in a publicly traded partnership is essentially comparable to the return on other portfolio investments. Under the passive loss rule, passive losses cannot be applied to offset portfolio income such as interest, dividends, annuities or royalties not derived in the ordinary course of a trade or business. It is believed that income from all publicly traded partnerships should be treated similarly to income from such investments for purposes of the passive loss rule.

Thus, the amendment provides that net income from an interest in any publicly traded partnership is not treated as passive income that can be offset by passive losses. Rather, like dividend income and other portfolio income, income from publicly traded partnership interests is not allowed to be offset by losses (or credits) from passive activities. Losses (and credits) from interests in such partnerships are suspended at the partner level and allowed upon a disposition of the interest in the partnership.

Explanation of Provision

General rules

Under the amendment, net income from publicly traded partnerships is not treated as passive income for purposes of the passive loss rule. Each partner in a publicly traded partnership treats loss (if any) from the partnership as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities. Net income from publicly traded partnerships is treated as portfolio income under the passive loss rule.

Net losses and credits attributable to the interest in the publicly traded partnership are not allowed against the partner's other income, but rather are suspended and carried forward. Such net losses can be applied against net income from the partnership in the next year (or the next succeeding year in which the holder of an interest in the partnership has net income from the partnership). Upon a complete disposition (within the meaning of the passive loss rule) of the partner's entire interest in the publicly traded partnership, any remaining suspended losses are allowed.

In general, income and loss items attributable to an interest in a publicly traded partnership can offset each other. Thus, for example, assume that a holder of an interest in a publicly traded partnership has a net loss from the partnership in one year of $2,000, and net income from the partnership in the next year of $1,500. $1,500 of the loss from the first year may be applied against the $1,500 income in the second year. The remaining $500 loss continues to be suspended at the partner level, and may be carried forward to future years to offset net income from the partnership. Similarly, a partner's share of credits from the partnership may be applied only to offset the partner's income tax liability attributable to the partnership interest. It is intended, however, that a partner be entitled to the $25,000 allowance with respect to credits from the partnership as under present law. The election to adjust basis in the event of a disallowed credit upon a complete disposition is intended to apply, in the case of a complete

disposition of an interest in a publicly traded partnership.

In the case of publicly traded partnerships with income that is treated as portfolio income (under the passive loss rule as generally applicable) and losses from business activities, the losses may not be applied against the portfolio income. Thus, under the amendment, partners' shares of the loss may not be applied against their shares of that portfolio income. Thus, partners in publicly traded partnerships cannot offset losses from partnership activities against portfolio income within the partnership that could not be offset against portfolio income derived outside the publicly traded partnership.

In determining which losses from the partnership interest are suspended and carried forward under the provisions, the general rules normally applicable in determining which losses are suspended under the passive loss rule are applicable. Generally, the amount of the suspended losses is determined on a pro rata basis.

For purposes of this rule, partners in publicly traded partnerships treat their interests in each such partnership as separately subject to the loss (and credit) limitation and disposition rules of the passive loss rule. Thus, under this rule, no net losses or credits attributable to an interest in a publicly traded partnership are allowed against income other than income from that partnership (except as otherwise provided under the passive loss rule, for example, upon a complete disposition of the partner's interest in the partnership).

The rules applicable to transfers by reason of death and to gifts are also intended to apply, in the case of transfers of interests in publicly traded partnerships. This is consonant with applying the loss and credit limitations and the disposition rules of the passive loss rule separately at the partner level to partners' items from publicly traded partnerships.

The intended overall result is that net losses and credits of a partner from each publicly traded partnership be suspended at the partner level, carried forward (not back) and netted against income, other than the partnership's portfolio income, from (or tax liability attributable to) that publicly traded partnership, and that suspended losses are allowed upon a complete disposition of the partner's interest in the partnership.

Publicly traded partnerships

Publicly traded partnerships are defined for purposes of the provision as partnerships whose interests are (1) traded on an established securities market, or (2) readily tradeable in a secondary market (or the substantial equivalent thereof).

For this purpose, an established securities market includes any national securities exchange registered under the Securities Exchange Act of 1934 or exempted from registration because of the limited volume of transactions, and any local exchange. It also includes any over the counter market. An over the counter market is characterized by an interdealer quotation system which regularly disseminates quotations of obligations by identified brokers or dealers, by electronic means or otherwise.

An interest is treated as readily tradeable on a secondary market (or the substantial equivalent thereof) if the interest is regularly quoted by brokers or dealers making a market in the interest. (See Treas. Reg. section 1.453-3(d)(3).) Thus, for example, an interest is readily tradeable in a secondary market where the interest is traded on a market essentially equivalent to an over the counter market, or where the holder has a readily available, regular and ongoing opportunity to sell or exchange his interest.

A partner's ability to trade the interest, without more, will not cause the interest to be treated as readily tradeable, nor will occasional sales of interests in the partnership, the terms of which are not widely publicized or widely available, indicate the existence of a secondary market.

The existence of a buy-sell agreement among the partners, without more, will not cause a partnership to be treated as publicly traded. Nor will the occasional and irregular repurchase or redemption by the partnership, or acquisition by the general partner, of interests in the partnership, cause the partnership to be considered as publicly traded under the provision. A regular plan of redemptions or repurchases, or similar acquisitions of interests in the partnership such that holders of interests have readily available opportunities to dispose of their interests, that is essentially equivalent to a secondary market, indicates that the interests are readily tradeable on what is the substantial equivalent of a secondary market.

In general, a provision for the discretion of the general partner or the partnership to refuse consent to transfer of an interest in the partnership (or of rights to income or other attributes of an interest in the partnership) does not, without more, prevent a partnership from being considered publicly traded. For example, the discretion of the general partner to refuse consent to a transfer if the transfer would cause a termination of the partnership for Federal income tax purposes does not cause the partnership to be treated as not publicly traded. Similarly, if the general partner must consent to any transfer of an interest in the partnership, but the assignment of rights to income (or other attributes) of the partnership is not so limited, the consent requirement does not cause the partnership to be considered as not publicly traded.

Effective Date

The provision is effective as if included in the amendments made by section 501 of the Tax Reform Act of 1986. Thus, the provision is effective for taxable years beginning after December 31, 1986.

2. Study of Tax Treatment of Publicly Traded Partnerships (sec. 4531(b) of the bill)

Present Law

Present law provides that a partnership is not subject to tax at the partnership level, but rather, income and loss of the partnership is subject to tax at the partner's level. A partner's share of partnership income is generally determined without regard to whether he receives any corresponding cash distributions. Thus, under present law, partnerships generally are treated as conduits for tax purposes.

Reasons for Change

This amendment changes the tax treatment of certain publicly traded partnerships, based on concerns related to preserving the effectiveness of the passive loss rule to curb tax shelters, achieving fair and equitable tax rules, and improving administrability of the tax law. Therefore it is appropriate to monitor and observe the changes made, in order to ascertain whether they have been effective and whether further changes are necessary.

Explanation of Provision

The amendment provides that the Secretary of the Treasury or his delegate shall conduct a study of compliance and administrative issues relating to the tax treatment of publicly traded partnerships and other large partnerships.

Effective Date

The Secretary is required to submit a report on the study, with such recommendations as the Secretary deems appropriate, to the House Committee on Ways and Means and the Senate Committee on Finance no later than January 1, 1989.

E. CHILD AND DEPENDENT CARE CREDIT

Deny Eligibility of Overnight Camp Expenses for Credit

(Sec. 4541 of the bill and sec. 21 of the Code)

Present Law

An income tax credit is provided equal to up to 30 percent of certain employment-related child and dependent care expenses (sec. 21). For example, costs incurred by the taxpayer for a day care center or nursery school, a housekeeper or other home care, and summer camps (including overnight camps) are eligible for the credit if incurred to enable the taxpayer to work.

The amount of qualified expenses eligible for the credit is limited to $2,400 ($4,800 for the care of two or more individuals). The 30 percent credit rate is reduced by one percentage point for each $2,000 (or portion thereof) of adjusted gross income (AGI) between $10,000 and $28,000. The credit rate is 20 percent for taxpayers with AGI exceeding $28,000.

Reasons for Change

It was concluded that a taxpayer's expenses for sending a child or other dependent to an overnight camp are not sufficiently related to the taxpayer's employment to justify providing a tax credit for such costs, as contrasted to the costs of day care. Overnight camp expenses are a personal consumption expenditure that is not a necessary cost of being able to go to work.

Explanation of Provision

Under the provision, costs incurred by a taxpayer to send a child or other dependent to an overnight camp are ineligible for the child and dependent care credit.

Effective Date

The provision is effective for expenses paid in taxable years beginning on or after January 1, 1988.

F. PENSION PROVISIONS

1. Modify Full Funding Limitation (sec. 4551 of the bill and sec. 412 of the Code)

Present Law

Under present law, subject to certain limitations, an employer may make deductible contributions to a qualified defined benefit pension plan up to the full funding limitation (sec. 404). The full funding limitation generally is defined as the excess, if any, of (1) the accrued liability (including normal cost) under the plan, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the value of the plan's assets determined under section 412(c)(2) (sec. 412(c)(7)). Generally, the accrued liability is based on projected benefits, which, unlike accrued benefits, are the benefits that are projected to be earned by normal retirement age, rather than the benefit accrued as of the close of the current year.

If a defined benefit plan is terminated, the employer's liability to plan participants

does not exceed the plan's termination liability (generally the liability for benefits determined as of the date of the plan termination). However, contributions to a plan with assets significantly in excess of termination liability may be deductible because the full funding limitation is determined on the basis of projected benefits.

Reasons for Change

Defined benefit pension plan should be funded in such a manner as to provide benefit security for participants. An employer should not be entitled, however, to make excessive contributions to a defined benefit pension plan to fund liabilities that it has not yet incurred. Such use of a defined benefit plan is equivalent to a taxfree savings account for future liabilities and is inconsistent generally with the treatment of unaccrued liabilities under the Code.

An overall cap on an employer's deductions for plan contributions is appropriate in the case of over funded plans. A proper balance between the competing concerns described above is achieved by limiting deductible contributions to a defined benefit pension plan to the extent that the contributions cause plan assets to exceed 150 percent of current liabilities, (i.e., generally accured liabilities).

Explanation of Provision

Under the amendment, the full funding limitation generally is defined to mean the excess, if any, of (1) the lesser of (a) the accrued liability (including normal cost) under the plan, or (b) 150 percent of current liabilities (as defined for purposes of the funding rules in this amendment, except that preparticipation years of service are taken into account in all cases), over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the value of the plan's assets determined under section 412(c)(2).

The amendment does not modify the definition of accrued liability in section 412(c)(7). Also, the requirement of section 412(c)(6)(B) that all amortizable amounts be considered fully amortized is applied without regard to the change in the full funding limitation (adding the 150 percent of current liability limitation).

It is further intended that the full funding limitation (as well as the other limitations on deductions for plan contributions) may not be avoided by the creation of multiple plans with coordination of benefits between the plans. The Secretary is to prescribe rules consistent with this intent.

Effective Date

This provision is effective for years beginning after December 31, 1987.

2. Minimum Funding Standard and Deductions

a. Additional funding requirements (sec. 4552 of the bill)

Present Law

In general

Under present law, certain defined benefit pension plans are required to meet a minimum funding standard for each plan year. The minimum funding standards require that an employer contribute an annual amount sufficient to fund a portion of participants' projected benefits determined in accordance with one of several prescribed funding methods, using actuarial assumptions that are reasonable in the aggregate.

Generally, a funding method calculates the cost of benefits under the plan in 2 components: (1) normal cost, which represents the cost of benefits allocated to the current year under the plan's funding method, and (2) a portion of the plan's accrued liabilities (i.e., all costs other than normal cost). The costs in (2) include costs with respect to past service liability (e.g., the cost of retroactive benefit increases), experience losses, and changes in actuarial assumptions. The amounts in (2) above are amortized over a period of years depending on the nature of the cost. Experience gains and gains from changes in actuarial assumptions are taken into account generally by offsetting a portion of the gains against the amounts determined under (1) and (2) above for the year. Losses increase such amounts.

Each defined benefit pension plan is required to maintain a special bookkeeping account called a "funding standard account". The account is charged with the costs described above and the amount necessary to amortize waived contributions (see below), and credited with the gains described above, the amount of waived contributions for the year, and contributions for the plan year. If, as of the close of a plan year, the account reflects credits equal to or in excess of charges, the plan is treated as meeting the minimum funding standard for the year. Thus, as a general rule, the minimum contribution for a plan year is determined as the amount by which the charges to the account would exceed credits to the account if no contribution were made to the plan.

Currently, some employers maintain "floor-offset" arrangements, which are a combination defined contribution plan and defined benefit plan. Under such an arrangement, a participant's benefits under the defined benefit plan (the floor plan) are offset by the participant's benefits under the defined contribution plan (the offset plan). The IRS has ruled that floor-offset arrangements may meet the qualification requirements of the Code if certain requirements are satisfied.

Past service liabilities

Past service liability existing before the effective date of the minimum funding standards (generally, 1976) is amortized over a period of 40 years. All other past service liability is amortized over a period of 30 years.

Experience gains and losses

Experience losses arise when a plan's experience is less favorable than anticipated under the plan's assumptions (e.g., interest, mortality, morbidity, and employee turnover). Similary, experience gains arise when a plan's experience is more favorable than anticipated. Experience gains and losses are amortized over 15 years.

Gains and losses from changes in assumptions

If the actuarial assumptions used for funding a plan are revised and, under the new assumptions, the liability of a plan is less than the liability computed under the previous assumptions the decrease is a gain from changes in actuarial assumptions. If the new assumptions result in an increase in the liability, the plan has a loss from changes in actuarial assumptions. The gain or loss for a year from changes in actuarial assumptions is amortized over a period of 30 plan years.

Switchback liability

Certain plans may elect to use an alternative minimum funding standard account for any year in lieu of determining contributions under the rules described above. Specified annual charges and credits apply with respect to the alternative account. The minimum funding standard is considered satisfied for a year if a contribution meeting the requirements of the alternative account is made, even if a greater contribution would be required under the normal funding rules.

If the plan switches back from the alternative account to the regular method of determining contributions, the excess, if any, of charges over credits at the time of the change ("the switchback liability") must be amortized over a period of 5 plan years.

Contingent benefits

Under present law, benefits contingent on events such as the shutdown of a facility are funded in the same manner as other benefits. Thus, the plan assumptions may include a probability that the shutdown or other contingency will occur. If too low a likelihood of the contingency occurring is assumed, then an experience loss occurs when the event occurs.

Shutdown and similar contingent benefits are guaranteed by the Pension Benefit Guaranty Corporation (PBGC) in accordance with the generally applicable rules regarding such guarantees (e.g., the limit on the dollar amount and type of benefit guaranteed) (see discussion below). To the extent the benefits are guaranteed, the guarantee phases in over time after the plan or plan amendment providing for the benefit is adopted (or the effective date of the plan or amendment, if later).

Valuation of assets

Under present law, the value of plan assets is to be determined in accordance with any reasonable actuarial method of valuation that takes into account fair market value and that is permitted under Treasury regulations. The regulations permit plan assets to be valued on the basis of the average value over a period not exceeding the 5 most recent plan years. Regardless of the valuation method used, the method must result in a value that is between 80 percent and 120 percent of fair market value or between 85 percent and 115 percent of average value as defined in the regulations (Treas. reg. sec. 1.412(c)(2)-1(b)(6)).

Factors contributing to underfunding of defined benefit plans

A plan is considered to be underfunded if, upon termination, it lacks sufficient assets to discharge its liabilities. One reason underfunding may arise is that, despite the minimum funding standard, the plan may terminate before the time necessary for full amortization of its liabilities has expired. This is particularly true with respect to plans that base benefits solely on service, rather than on service and salary, and that provide regular benefit increases with respect to all years of service.

For example, assume that, at the time a plan was adopted, it provided benefits measured (in part) by service performed before the plan was adopted. The liability for those benefits (past service liability) is amortized over a period of 30 years. If the plan terminates before the end of the 30-year period, then the plan will be underfunded unless favorable investment experience, gains due to favorable mortality experience or other experience gains are sufficient to offset the unfunded liability arising from the past service benefit.

Underfunding may also be attributable to unamortized losses arising from investment experience or other experience (e.g., mortality, morbidity, employee turnover) that is less favorable than anticipated. An example of significant experience losses creating un-

derfunding is the substantial increase in plan liabilities that is triggered by a plant closing or similar sudden workforce contraction that has not been fully anticipated in funding the plan. In some cases, a plan is underfunded at termination because the employer obtained a waiver of the funding standard and the plan was terminated before the waived funding deficiency was fully amortized.

Reasons for Change

As of September 30, 1985, the PBGC reported a deficit of approximately $1.3 billion. As of September 30, 1986, the PBGC's deficit nearly tripled over the prior year, reaching $3.8 billion (approximately $2 billion of which is attributable to the termination of plans maintained by LTV Corporation). The substantial increase in the deficit of the PBGC is generally attributed to the termination of certain steel industry pension plans with insufficient assets to provide guaranteed benefits.

The PBGC's deficit has not affected its immediate ability to pay pension benefits to retired participants in terminated plans. However, PBGC officials estimate that projected increases in the PBGC's deficit could result in insufficient assets to pay annual costs in approximately 15 years.

The General Accounting Office issued a report on March 19, 1987 (the "GAO Report")[6] stating that, during the years 1983-85, 70 percent of the claims against the PBGC for termination of underfunded plans resulted because the present-law funding standards do not require sufficient contributions to fund increased unfunded liabilities arising in part from numerous benefit increases within 5 years of plan termination.

It is believed that the present-law funding requirements expose plan participants and the PBGC to excessive risk. Under present law, the funded status of a plan may deteriorate even if the minimum funding requirements are fully satisfied. Thus, it is concluded that the present-law rules, which provide long-term financing of increases in unfunded liabilities under a pension plan, create an incentive for employers to provide benefit increases that might otherwise not be affordable.

Accordingly, more rapid funding requirements would more appropriately limit the ability of employers to delay or avoid funding obligations. An employer should not have the opportunity to make pension promises that exceed its financial capacity to meet its promises. In order to reduce the financial risk to plan participants and the PBGC, the amendment requires certain plans to be funded more rapidly depending on the funded status of the plan.

It is believed that certain types of contingent benefits create special funding problems. Benefits contingent on relatively unpredictable events, such as a plant shutdown, typically are not adequately funded before the event occurs. Thus, upon the occurrence of the contingency, a tremendous increase in plan underfunding may occur, and the employer often is not financially able to fund such benefits at that time. In some cases, the liability for the benefits may be shifted to the PBGC. It is believed that it is appropriate to provide special funding rules with respect to certain contingent benefits.

[6] U.S. General Accounting Office, *Pension Plans: Government Insurance Program Threatened By Its Growing Deficit* (GAO/HRD-87-42).

Explanation of Provisions

In general

The amendment retains the present-law funding standards under section 412 of the Code, with certain modifications. In addition, with respect to an underfunded plan, the minimum required contribution is, in general terms, the greater of (1) the amount determined under section 412 (with the modifications made by the amendment), or (2) the sum of (i) normal cost, (ii) the amount necessary to amortize experience gains and losses and gains and losses resulting from changes in actuarial assumptions over 5 years, and (iii) the deficit reduction contribution. In addition, a special funding rule applies with respect to benefits that are contingent on unpredictable events.

More specifically, the amendment provides that, for an underfunded plan, the amount otherwise required to be charged to the funding standard account for a plan year otherwise is increased by (1) the excess of (i) the deficit reduction contribution over (ii) certain charges to the funding standard account reduced by certain credits to such account, plus (2) the unpredictable contingent event amount (if any) for the plan year. The charges taken into account under the preceding sentence include (i) the amount necessary to amortize past service liability, (ii) the amount necessary to amortize each waived funding deficiency, and (iii) the amount necessary to amortize certain amounts credited in the case of an employer previously using the alternative minimum funding standard account (the switchback liability). The credits taken into account include the amounts necessary to amortize decreases in past service liability.

As under present law, contributions in excess of the minimum required contribution will create funding credit balances that may be used to offset the required minimum contribution. In addition, credit balances in existence on the effective date may be used to offset required minimum contributions. The amendment does not affect the ability of an employer to maintain a floor-offset arrangement.

Deficit reduction contribution

Under the amendment, the deficit reduction contribution is the sum of (1) the unfunded old liability amount, and (2) the unfunded new liability amount. Calculation of these amounts is based upon the plan's "current liability".

Current liability.—Under the amendment, the term "current liability" means all liabilities to employees and their beneficiaries under the plan (as determined under sec. 401(a)(2)). However, the value of any "unpredictable contingent event benefit" is not taken into account in determining current liability until the event on which the benefit is contingent occurs. An "unpredictable contingent event benefit" is any benefit contingent on an event other than (1) age, service, compensation, death, or disability, or (2) an event which is reasonably and reliably predictable as determined by the Secretary.

It is not intended that an event will be considered reliably and reasonably predictable solely because an actuarial probability of the event occurring may be determined. It is further intended that the Secretary of the Treasury will prescribe rules defining events that can and cannot be reasonably and reliably predicted and will revise these rules as new benefits are developed.

Unpredictable contingent event benefits are intended to include benefits that depend on contingencies that, like facility shutdowns or reductions or contractions in workforce, are not reliably and reasonably predictable. Such contingencies are not limited to events that are similar to shutdowns or reductions in force. For example, a benefit dependent on the profits of the employer or the value of employer stock dropping below a certain level would be considered a benefit contingent on an event that is not reasonably and reliably predictable (unless the contingency is illusory).

If an employer provides an early retirement window benefit under which employees who have satisfied certain age or service requirements or both are offered a limited period of time during which they may elect to retire, such a window benefit is generally considered to be contingent on an event that can be reasonably and reliably predicted. The Secretary of the Treasury may, in appropriate circumstances, treat such window benefits as benefits which are contingent on an event that cannot be reasonably and reliably predicted.

It is intended that a benefit contingent on marital status, such as a qualified joint and survivor annuity, is generally to be considered a benefit that is contingent on an event that can be reasonably and reliably predicted.

It is intended that the Secretary of the Treasury may prescribe rules to prevent employers from avoiding the new minimum funding rules by characterizing contingencies as not reasonably and reliably predictable. For purposes of the definition of current liability, a benefit is generally not to be considered contingent on an event which is not reasonably and reliably predictable if there is substantial certainty that the event on which the benefit depends will occur.

An early retirement subsidy, social security supplement, survivor subsidy or similar benefit in addition to the basic retirement benefit under a plan that is payable only on the satisfaction of certain eligibility conditions, (e.g., age and/or years of service eligibility conditions) is included in current liability to the extent that the employee has earned the subsidy, supplement, or similar benefit.

For example, assume that a plan provides that an employee is entitled to a basic retirement benefit commencing at age 65 of 1 percent of final average pay times years of service and that, if the employee retires at age 55 with at least 25 years of service, the employee's retirement benefit will not be actuarially reduced for early commencement (i.e., this is an early retirement subsidy). For purposes of calculating the current liability for such plan for a year, an employee age 50 with 20 years of service has a total retirement benefit (i.e., normal retirement benefit plus early retirement subsidy) of 80 percent of the unreduced age 55 benefit (based on final average pay at age 50). That is, there is no actuarial reduction for commencement before age 65. The same analysis applies in determining the extent to which a social security supplement, survivor subsidy, or similar benefit has been earned under the plan.

Current liability is generally determined in accordance with plan assumptions. Thus, in the example described above, because not all employees who have earned a right to some portion of the early retirement benefit will ultimately satisfy the eligibility conditions for the subsidy (e.g., not all such employees will remain with the employer until age 55), a plan is to calculate its current liability for the year by using reasonable turnover and mortality factors.

The amendment provides a special limitation on the interest rate used for purposes of calculating current liability. Under the amendment, the interest rate is the rate used for calculating costs under the plan. If such rate is not within the permissible range, then the plan is required to establish a new interest rate that is within the permissible range. The permissible range is defined as a rate of interest that is not more than 20 percent above or below the average mid-term applicable Federal rate (AFR) for the 3-year period ending on the last day before the beginning of the plan year for which the interest rate is being used (or, if shorter, the period that the AFR has been computed). The average is determined by averaging the rate in effect for each month during the applicable 3-year period. The Secretary may prescribe one or more indices in lieu of the average mid-term AFR to be used in determining the permissible range.

The amendment provides that certain service may be disregarded at the employer's election in calculating the plan's current liability. In the case of certain participants, the applicable percentage of the years of service before the individual became a participant are taken into account in determining current liability. The applicable percentage is (1) 0, if the individual has 5 or less years of participation, (2) 20, if the individual has 6 years of participation, (3) 40, if the individual has 7 years of participation, (4) 60, if the individual has 8 years of participation, (5) 80, if the individual has 9 years of participation, and (6) 100 if the individual has 10 or more years of participation. Partial years of participation are rounded to the nearest whole year.

The rule disregarding pre-participation service is available with respect to any participant who, at the time of becoming a participant, has not accrued any other benefits under any defined benefit pension plan (whether or not terminated) of the employer or the employer's controlled group, and has years of service before such time in excess of the years of service required for eligibility to participate in the plan. The rule applies only with respect to new participants in years beginning after December 31, 1987.

The amendment provides that unfunded current liability means, with respect to any plan year, the excess of (1) the current liability under the plan over (2) the value of the plan's assets reduced by any credit balance in the funding standard account. The funded current liability percentage of a plan for a plan year is the percentage that (1) the value of the plan's assets reduced by any credit balance in the funding standard account is of (2) the current liability under the plan.

Unfunded old liability amount.—The unfunded old liability amount is, in general, the amount necessary to amortize the unfunded old liability under the plan in equal annual installments (until fully amortized) over a fixed period of 15 plan years (beginning with the first plan year beginning after December 31, 1988). The "unfunded old liability" with respect to a plan is the unfunded current liability of the plan as of the beginning of the first plan year beginning after December 31, 1987, determined without regard to any plan amendment adopted after October 16, 1987, that increases plan liabilities (other than amendments adopted pursuant to collective bargaining agreements described in the following paragraph).

Under a special rule applicable to collectively bargained plans, increases in liabilities pursuant to a collective bargaining agreement ratified before October 17, 1987, are also amortized over 15 years. Thus, under the amendment, the unfunded old liability amount with respect to a collectively bargained plan is increased by the amount necessary to amortize the unfunded existing benefit increase liabilities in equal annual installments over a fixed period of 15 plan years, beginning with the plan year in which the increase in liabilities occurs pursuant to the bargaining agreement (or, if later, the first plan year beginning after December 31, 1988). For purposes of this rule, the unfunded existing benefit increase liability means the unfunded current liability determined by taking into account only (1) liabilities attributable to the increase in liabilities pursuant to the agreement, and (2) the value of assets in excess of current liability (determined without regard to the liabilities described in (1)).

The employer may elect to amortize unfunded existing benefit increase liability under an alternative rule instead of the rule described above. Under the alternative rule, the increases in liabilities under the collective bargaining agreement would be calculated as of the beginning of the first plan year beginning after December 31, 1987. This amount would be included in calculating the initial unfunded old liability and, together with any other unfunded old liability, would be amortized over 15 years (beginning with the first plan year beginning after December 31, 1988).

For purposes of determining the unfunded existing benefit increase liability, any extension, amendment, or other modification of a bargaining agreement after October 16, 1987, is not taken into account. In general, the unfunded existing benefit increase liability only includes increases in liability pursuant to the bargaining agreement and therefore does not include liability increases with respect to individuals covered by the plan who are not subject to the collective bargaining agreement. However, if more than 75 percent of the employees covered by the plan on October 16, 1987, are subject to the collective bargaining agreement, then the unfunded existing benefit increase liability includes the liability with respect to all employees in the plan whose benefits are determined directly or indirectly by reference to the terms of the bargaining agreement, whether or not such employees are subject to the agreement. Separate plans may not be treated as a single plan for purposes of this rule, even if the benefits under the plans are coordinated.

For example, assume a benefit increase under a collective bargaining agreement ratified before October 17, 1987, takes effect on January 1, 1990, and that the liability due to the benefit increase is 10x$. The current liability of the plan determined without regard to the benefit increase is 100x$, and the value of plan assets is 105x$. The plan year is the calendar year. The unfunded existing benefit increase liability is 5x$. This amount will be amortized over 15 years beginning in 1990.

Alternatively, instead of amortizing the benefit increase as described above, the employer could elect to add the liability due to the increase (calculated as of January 1, 1988) to the unfunded old liability (determined without regard to the benefit increase) and amortize the entire amount over 15 years beginning in 1989.

Unfunded new liability amount.—The unfunded new liability amount for a year is the applicable percentage of the plan's "unfunded new liability." "Unfunded new liability" means the unfunded current liability of the plan for the plan year, determined without regard to (1) the unamortized portion of the unfunded old liability and (2) the liability with respect to any unpredictable contingent event benefits, without regard to whether or not the event has occurred. Thus, in calculating the unfunded new liability, all unpredictable contingent event benefits are disregarded, even if the event on which that benefit is contingent has occurred.

If the funded current liability percentage is less than 35 percent, then the applicable percentage is 30 percent. The applicable percentage decreases by .25 of one percentage point for each 1 percentage point by which the plan's funded current liability percentage exceeds 35 percent. For example, if the funded current liability percentage is 55 percent, then the applicable percentage is 25 percent, and the unfunded new liability amount for the plan year is 25 percent of the unfunded new liability. Similarly, if the funded current liability percentage is 80, then the applicable percentage is 18.75 and the unfunded new liability amount for the plan year is 18.75 percent of the unfunded new liability.

Unpredictable contingent event benefits

If the event on which an unpredictable contingent event benefit is contingent occurs during the plan year and the assets of the plan are less than current liability (calculated after the event has occurred), then an additional funding contribution (over and above the minimum funding contribution otherwise due) is required. The amount of the required additional contribution is generally equal to the greater of (1) the amount of unpredictable contingent event benefits paid during the plan year (regardless of the form in which paid), including (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract with respect to a participant with respect to such benefits, and (2) the amount that would be determined for the year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 years, beginning with the plan year in which the event occurs. For the year in which the event occurs, an amount equal to 150 percent of the amount determined under (1) above may, at the employer's election, be treated as the unpredictable contingent benefit amount. In no case, however, will the unpredictable contingent event amount exceed the unfunded current liability (including the liability due to the contingent event benefit) of the plan.

If the event on which an unpredictable contingent event benefit is contingent occurs during the plan year and the assets of the plan equal or exceed current liability (calculated after the event has occurred), then the employer may continue to fund the plan's unpredictable contingent event benefits as under present law (i.e., generally as an experience loss), subject to the application of the special rule if the plan's funding falls below current liability.

Adjustments

The Secretary of the Treasury is to prescribe appropriate adjustments in the unpredictable contingent event amount, the old liability amount, the new liability amount, and the other charges and credits under section 412 as are necessary to avoid inappropriate duplication or omission of any factors in the determination of such

amounts, charges and credits (for example, adjustments reflecting asset appreciation or depreciation).

It is also intended that the Secretary will provide special rules for multiple-employer plans where appropriate.

Small plan exception

The new funding rules for plans with assets less than current liability do not apply to a plan with no more than 100 participants on any day in the preceding plan year. In the case of a plan with more than 100 but no more than 150 participants during the preceding year, the amount of the additional contribution is determined by multiplying the otherwise required additional contribution by 2 percent for each participant in excess of 100. For purposes of this rule, all defined benefit plans (including multiemployer plans) of the employer and the employer's controlled group are treated as a single plan. Controlled group is defined as in section 414(b), (c), (m) and (o). With respect to a multiemployer plan, only employees of the employer (or a controlled group member) are taken into account.

Valuation regulations

The amendment provides that, effective with respect to plan years beginning after December 31, 1987, the portions of the regulations permitting asset valuations to be based on a range between 85 percent and 115 percent of average value are to have no force and effect. In addition, the amendment provides that the Secretary of the Treasury is to amend the regulations to carry out the intent of this provision.

Effective Dates

In general, the changes in the minimum funding requirements for defined benefit pension plans apply with respect to plan years beginning after December 31, 1988.

Contingent event benefits with respect to which the event has occurred before October 17, 1987, are not subject to the new funding rule for such benefits. If the event has not occurred on or before October 16, 1987, such benefits are subject to the new funding rules for such benefits. If the event occurs after October 16, 1987, and before the first day of the first plan year beginning after December 31, 1988, funding under the new rule begins in such first plan year. Of course, for the first plan year beginning after December 31, 1987, contingent event benefits are subject to the new rules regarding gain and losses.

With respect to provisions that cross reference the definition of "current liability," the definition is effective at the time the provision cross referencing it is effective.

b. Time for making contributions (sec. 4553 of the bill)

Present Law

Under present law, an employer is treated as making a contribution that satisfies its minimum funding requirement for a plan year if the contribution is made within 8½ months after the close of the plan year. Of that 8½ month grace period for making plan contributions, 6 months were provided under Treasury regulations.

Reasons for Change

In light of the GAO report, it is believed that it is not appropriate to permit employers to make no contributions until 8½ months following the end of the plan year. The GAO report found that a significant amount of claims against the PBGC occurred when plan contributions for a year were not made because their payment deadline expired after the date of plan termination.

Further, it is believed that requiring quarterly plan contributions could provide an early warning to the PBGC, the IRS, and to plan participants of possible employer difficulty in meeting its funding obligations. Such an approach is consistent with other tax laws, such as those requiring withholding taxes and estimated tax payments to be made on a quarterly basis. Because the amendment requires that a significant portion of the year's contribution be made in installments during the plan year, it is believed that that it is not necessary to accelerate the 8½ month period for making the final plan contribution.

In addition, there is concern that, under present law, employees do not receive adequate information relating to the funded status of a plan maintained by the employer. As a result, employees may make retirement planning decisions without knowledge of the risk that they will not receive their promised benefits under the employer-maintained plan. Accordingly, it is believed that employees should be aware of whether or not the employer is making required contributions to the plan so that each employee may assess the risk that the employer's plan will not have sufficient assets to pay benefits when due.

In order to ensure that contributions are actually paid to the plan, it is also believed that it is appropriate to provide for a lien in favor of the plan if contributions are missed.

Explanation of Provisions

Quarterly payments of estimated required contribution

Under the amendment, 4 installment payments of minimum funding contributions are required for each plan year. The due dates of these 4 required installments are, in the case of a calendar year plan year, April 15, July 15, October 15, and January 15 of the following year. The amount of each required installment is 25 percent of the required annual payment.

The amendment defines the required annual payment to be the lesser of (1) 90 percent of the amount the employer is required to contribute for the plan year under the minimum funding requirements (other than the unpredictable contingent event amount) or (2) 100 percent of the amount the employer was required to contribute for the preceding plan year (other than the unpredictable contingent event amount) with respect to the plan and any predecessor plans. The second rule does not apply if the preceding plan year was less than 12 months. The unpredictable contingent event amount is required to be contributed in addition to the installment contributions otherwise due. Thus, for example, if the unpredictable contingent event amount for a quarter is equal to the amount of payments of unpredictable contingent event benefits, such amount is required to be contributed at the same time and in addition to the otherwise required next quarterly installment.

In the case of a plan year that is not a calendar year, the due dates of the required installments are (1) the 15th day of the 4th month, (2) the 15th day of the 7th month, and (3) the 15th day of the 10th month following the beginning of the plan year, and (4) the 15th day of the 1st month following the beginning of the following plan year. Under the amendment, the due dates of required installments in the case of a short plan year are to be determined under Treasury regulations.

If a required installment is not paid to the plan by the due date for the installment the funding standard account is charged with interest on the amount of the underpayment for the period of the underpayment. The amount of the underpayment is determined by subtracting the installment payments made on or before the due date of the installment from the required installment.

The period of the underpayment is the period from the due date of the installment to the earlier of (1) the contribution due date for the plan year (i.e., 8½ months following the end of the plan year), or (2) with respect to any portion of an underpayment, the date on which the portion is contributed to the plan. Contributions are credited first to the underpayments arising first.

The rate of interest is the greater of 175 percent of the Federal mid-term rate (AFR) or the rate of interest used under the plan in determining costs.

Notice of failure to meet minimum funding standards

The amendments requires that the employer is to notify participants and beneficiaries if the employer fails to make a required installment or fails to make the final contribution (i.e., the contribution required by 8½ months following the end of the plan year). It is expected that the Secretary will prescribe special notice rules in the case of multiple employer plans targetting the notice to participants and beneficiaries with respect to the employer failing to make the required contribution.

Imposition of lien

If the employer fails to make a required contribution (including a required installment payment) when due, a lien arises in favor of the plan in the amount of the missed contribution (including interest). The lien is on all property and rights to property, whether real or personal, belonging to the contributing sponsor and members of the controlled group of the contributing sponsor. The lien generally arises 30 days after the due date of the contribution, and continues until the payment of such contribution (including interest). However, if a timely request for a funding waiver is made with respect to the contribution, then the lien does not arise until the day after the waiver is denied. No lien arises if the waiver is granted. The employer is required to notify the PBGC of any failure to make a required contribution within 10 days after the due date of the contribution.

If the employer fails to make successive contributions, the lien previously in existence under this provision does not terminate. Rather, the provision operates with respect to each successive missed contribution.

The lien may be perfected and enforced only by the PBGC or, at the direction of the PBGC, by the contributing sponsor or any member of the controlled group of the contributing sponsor. Rules similar to the rules in section 4068 (c), (d), and (e) of ERISA apply with respect to the lien and the amount on which the lien is based. A perfected lien is treated as a Federal tax lien, and an unperfected lien is treated as a Federal tax claim.

Effective Dates

The provisions are effective for plan years beginning after December 31, 1987. Under a transition rule, the amount of each required installment payment (other than payments of the unpredictable contingent event amount) is (1) 5 percent for plan years be-

ginning in 1988, (2) 10 percent for plan years beginning in 1989, (3) 15 percent for plan years beginning in 1990, and (4) 20 percent for plan years beginning in 1991.

c. Liability of members of controlled group for taxes on failure to meet minimum funding standards (sec. 4554 of the bill)

Present Law

If, as of the close of any plan year, the minimum required contribution has not been made and charges to the funding standard account exceed credits to the account, then the excess is referred to as an "accumulated funding deficiency." Unless a minimum funding waiver is obtained, an employer who is responsible for contributing to a plan with an accumulated funding deficiency is subject to a 5-percent nondeductible excise tax on the amount of the deficiency (Code sec. 4971). If the deficiency is not corrected within the "taxable period," then an employer who is responsible for contributing to the plan is also subject to a nondeductible excise tax equal to 100 percent of the deficiency. The taxable period is the period beginning with the end of the plan year in which there is a deficiency and ending on the earlier of (1) the date of a mailing of a notice of deficiency with respect to the 5-percent tax or (2) the date on which the 5-percent tax is assessed by the Internal Revenue Service (IRS).

The excise taxes imposed for a failure to meet the funding requirements applicable to a plan are imposed only on an employer who is responsible for contributing to the particular plan in which the deficiency arises. Another taxpayer that is a member of the same controlled group of corporations or trades or businesses as the employer is not liable for a funding deficiency unless the other taxpayer is also responsible for contributing to that plan. Under proposed regulations, the entire controlled group would be liable for any excise taxes imposed for a failure by a member of the group to satisfy the minimum funding requirements.

Reasons for Change

It is believed that the present-law rules relating to the liability to make contributions to a pension plan enable an employer that is a member of a controlled group to avoid its liabilities when it is unable to make a required contribution even though other members of the employer's controlled group have sufficient assets to make the employer's required contribution. The failure to impose liability for the contributions on a controlled group basis increases the potential risk to plan participants and the PBGC.

In addition, in light of the GAO report, it is believed that increases in the taxes for failure to make contributions are needed to help ensure that contributions are made when due.

Explanation of Provision

Under the amendment, as under present law, the employer who maintains a pension plan is liable for any excise taxes imposed for a failure to meet the minimum funding standards (Code sec. 4971). In addition, if the employer is a member of a controlled group, each member of the employer's controlled group is jointly and severally liable for such excise taxes.

Under the amendment, a controlled group is any group of employers treated as a single employer under section 414(b), (c), (m), or (o).

The amendment also increases the amount of the first-tier excise tax from 5 percent to 10 percent.

Effective Date

The provision is effective for taxes imposed with respect to plan years beginning after December 31, 1987.

d. Funding waivers (sec. 4555 of the bill)

Present Law

Within limits, the IRS is permitted under present law to waive all or a portion of the contributions required under the minimum funding standard for a plan year. Generally, the IRS has required that a request for a waiver be submitted by the end of the plan year following the plan year for which the waiver is requested. A waiver may be granted if the employer (or employers) responsible for the contribution could not make the required contribution without substantial business hardship and failure to grant the waiver would be adverse to the interests of plan participants in the aggregate. The IRS generally takes the position that a waiver will not be granted unless the hardship is temporary and the employer demonstrates that recovery is likely. Under present law, an employer is required to notify each employee organization representing employees covered by the plan of an application for a funding waiver. No more than 5 waivers may be granted within any period of 15 consecutive plan years.

A waived contribution is a waived funding deficiency. Under the funding standard, the amount of a waived funding deficiency is amortized over a period of 15 plan years, beginning with the year following the year for which the waiver is granted. Each year, the funding standard account is charged with the amount amortized for that year unless the plan becomes fully funded. Interest on the waived amount is equal to the rate applicable to late payment of taxes (Code sec. 6621(b)). The IRS generally allows deductions for contributions made to amortize waived deficiencies more quickly than over 15 years. (See, e.g., Rev. Rul. 78-223, 1978-1 C.B. 125.)

Reasons for Change

It is believed that employers have used funding waivers in the past to minimize plan contributions during the period immediately preceding the termination of a plan. The GAO report found that 30 percent of the claims against the PBGC arising during the period 1983-1985 resulted from the failure of employers to make required plan contributions prior to plan termination. The GAO concluded that significant percentages of the large claims represented required contributions that were overdue or had been waived by the IRS.

Under present law, funding waivers are equivalent to an extension of credit from a plan to the employer that normally would be treated as a prohibited transaction. It is believed that such an extension of credit is not appropriate unless adequate safeguards apply to protect participants' benefits. Plan participants should not be required to finance the continuing operations of an employer by placing their retirement benefits at risk.

Further, it is believed that the integrity of the plan termination insurance program will be jeopardized if employers have the opportunity to avoid liability for their pension promises at the expense of other employers who moderated their promises or are more financially secure and remain in the defined benefit system.

Explanation of Provision

The amendment modifies the rules governing the availability of minimum funding waivers in several respects. Under the amendment, a waiver application is required to be filed no later than the due date for the contribution (including required installments). Thus, a waiver for a quarterly installment must be made by the due date for the installment.

The standards for obtaining a waiver are clarified by incorporating in the statute the present-law requirement that the employer seeking a waiver is required to establish that the financial hardship is temporary. The IRS is directed to apply the temporary hardship standard to prevent the granting of funding waivers to employers that will not recover sufficiently to make their waived contributions. Because all members of the controlled group of the employer maintaining the plan are liable for excise taxes under the minimum funding rules, the hardship determination is based, under the amendment, upon the circumstances of the entire controlled group, as well as the circumstances of the particular employer.

In order to make funding waivers more equivalent to commercial loans, the amendment provides that the interest rate on waived contributions for purposes of determining the amortization charge for waived amounts is increased from the interest rate applicable to the late payment of taxes to the greater of the plan's interest rate for funding purposes or 150 percent of the Federal mid-term rate (as in effect under sec. 1274 for the first month of the plan year). The interest rate based on the Federal mid-term rate is intended to be an administrable measure of a market interest rate for borrowing by a distressed company.

To protect plans against protracted periods of serious underfunding and serious deterioration of the funded status of the plan, the amendment provides that a funding waiver may not be granted with respect to a plan that has assets less than current liability. The determination of whether a plan has assets less than current liability is to be made at the beginning of the plan year or at such other time as determined by the Secretary.

In addition, the amendment reduces the number of waivers that may be granted with respect to any plan within a 15-year period from 5 to 3. A single waiver request may be made with respect to all quarterly contributions for a year and the final required contribution.

It is not intended that the amendment will affect the administrative practice of the IRS under which deductions are allowed for contributions that amortize waived funding deficiencies more rapidly than the required amortization.

Effective Dates

The provision relating to funding waivers is effective with respect to any application for a funding waiver submitted with respect to plan years beginning after December 31, 1987. With respect to the rule restricting the number of waivers in a 15-year period, waivers granted prior to the effective date are taken into account.

e. Amortization periods (sec. 4556(a) of the bill)

Present Law

In determining plan funding under an actuarial cost method, a plan's actuary generally makes certain assumptions regarding the future experience of a plan. These assumptions typically involve rates of interest, mortality, disability, salary increases, and other factors affecting the value of assets

and liabilities. The actuarial assumptions are required to be reasonable in the aggregate. If, on the basis of these assumptions, the contributions made to the plan result in actual unfunded liabilities that are less than anticipated by the actuary, then the excess is an experience gain. If the actual unfunded liabilities are greater than those anticipated, then the difference is an experience loss. For a single-employer plan, experience gains and losses for a year are amortized over a 15-year period.

If the actuarial assumptions used for funding a plan are revised and, under the new assumptions, the liability of a plan is less than the liability computed under the previous assumptions, the decrease is a gain from changes in actuarial assumptions. If the new assumptions result in an increase in the liability, the plan has a loss from changes in actuarial assumptions. The gain or loss for a year from changes in actuarial assumptions is amortized over a period of 30 plan years.

Reasons for Change

It is believed that the present-law amortization period for experience gains and losses delays unnecessarily the reconciliation of actual experience and actuarial assumptions. The present-law amortization period for experience losses contributes to underfunding and thereby undermines benefit security and increases the risk of loss to the PBGC. The present-law amortization period for experience gains similarly contributes to inappropriate overfunding because such gains are taken into account over a long period.

Similarly, it is believed that the present-law amortization period for gains and losses resulting from changes in actuarial assumptions delays unnecessarily the reconciliation of the old assumptions with the new assumptions. In addition, the lengthy amortization period provided under current law may contribute to undue manipulation of plan assumptions.

Explanation of Provision

Under the amendment, the period for amortizing experience gains and losses is reduced to 5 years from 15 years. The period for amortizing gains and losses from changes in assumptions is reduced to 5 years from 30 years.

Effective Date

The provision is effective for gains and losses arising in plan years beginning after December 31, 1987. The amendment does not affect the amortization period applicable to gains and losses arising in plan years beginning before January 1, 1988.

f. Actuarial assumptions must be reasonable (sec. 4556(b) of the bill)

Present Law

Under present law, the actuarial assumptions used to determine costs, liabilities, interest rates, and other factors under a plan are required to be reasonable in the aggregate. Present law does not require any individual actuarial assumption to be reasonable.

Reasons for Change

The present-law rule for actuarial assumptions presents significant compliance problems for the IRS. It is substantially more difficult for the IRS to establish that a plan's funding is determined on the basis of actuarial assumptions that are, in the aggregate, unreasonable than to challenge any individual assumption.

It is believed that these administrative problems reduce the ability of the IRS to require an employer to make plan contributions necessary to meet the plan's benefit obligations.

In addition, some employers who wish to maximize their tax deferral or obtain a larger tax deduction in a particular year use unrealistic actuarial assumptions (such as an extremely low interest rate assumption) in order to generate larger plan contributions and deductions. The inability of the IRS to challenge individual actuarial assumptions makes it more likely that employers who want to manipulate the present-law rules may do so.

Explanation of Provision

The amendment modifies the standard for actuarial assumptions to require that all costs, liabilities, interest rates, and other factors are to be determined on the basis of actuarial assumptions and methods (1) each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or (2) which result, in the aggregate, in a total plan contribution equivalent to the contribution that would be obtained if each assumption were reasonable. Under the amendment, as under present law, the costs, etc., are required to represent the plan actuary's best estimate of anticipated experience under the plan. It is intended that the taxpayer has the burden of demonstrating that each actuarial assumption is reasonable and, if each actuarial assumption is not reasonable, that the assumptions in the aggregate result in a total contribution equivalent to the contribution that would be obtained if each assumption were reasonable.

Effective Date

The provisions are effective for plan years beginning after December 31, 1987.

g. Limitation on deduction for contributions to certain plans not less than unfunded current liability (sec. 4556(c) of the bill)

Present Law

Under present law, an employer may deduct contributions to a pension plan, within limits. In the case of a defined benefit pension plan, an employer's contributions to a plan may not be deductible even though the sum of the contributions plus the plan assets do not exceed the plan's current liability for the plan year.

Reasons for Change

Under the amendment, underfunded plans are subject to an exposure-related PBGC premium based on the amount of underfunding as a function of current liability. It is believed that it would be unfair to impose the exposure-related premium if the employer is willing to fund the plan up to the level of current liability.

Explanation of Provision

The amendment provides that the maximum deduction limit for contributions to certain defined benefit pension plans for a plan year is not to be less than the unfunded current liability for the plan. Current liability is determined as under the minimum funding rules. Thus, if the employer elects to take pre-participation service into account in calculating current liability under the minimum funding rules, such service is also taken into account in calculating current liability for purposes of this deduction rule. Except as provided by the Secretary, contributions to a defined benefit pension plan are deductible under this rule if the plan has 100 or more participants during the plan year. For purposes of the 100-participant rule, all defined benefit plans (including multiemployer plans) maintained by the same employer or any member of such employer's controlled group are to be treated as a single plan. With respect to multiemployer plans, only employees of the employer (or controlled group member) are taken into account.

Effective Date

The provision is effective for years beginning after December 31, 1987.

3. Treatment of Plan Terminations (secs. 4557-4559 of the bill)

Present Law

Law before 1986

Prior to 1986, an employer could, subject to contractual obligations, terminate a single-employer defined benefit pension plan at any time without regard to the financial health of the employer and without regard to the level of assets in the plan. If a terminated single-employer plan had assets that were sufficient to pay benefits at the level guaranteed by the PBGC, the plan was required to pay those benefits to participants and beneficiaries, and the employer had no liability to the PBGC. If a single-employer plan was terminated with assets insufficient to pay benefits at the level guaranteed by the PBGC, the PBGC would pay unfunded guaranteed benefits. The employer was then liable to the PBGC for the insufficiency or for an amount equal to 30 percent of the employer's net worth, if less. The employer had no further liability to plan participants and beneficiaries.

SEPPAA

The Single Employer Pension Plan Amendments Act (SEPPAA), enacted in 1986, substantially modified the rules relating to the termination of single-employer defined benefit pension plans. Under SEPPAA, the conditions under which an employer may voluntarily terminate a plan were revised and an employer's liability to plan participants and the PBGC was increased in the case of a termination of an underfunded plan.

Guaranteed benefits

Subject to limits, the PGBC guarantees basic benefits under a plan. Basic benefits consist of nonforfeitable retirement benefits other than those benefits that become nonforfeitable solely on account of the termination of the plan, ERISA set the maximum guaranteeable benefit at $750 per month in 1974, to be adjusted annually based on the Social Security wage and benefit base. The maximum monthly amount for 1987 is $1,857.95.

Guarantees do not apply with respect to benefits in effect for fewer than 60 months at the time of plan termination unless the PGBC finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of securing increased guaranteed benefits for participants. In cases in which they apply, guarantees are phased in at the rate of $20 per month or 20 percent per year, whichever is greater, for (1) basic benefits that have been in effect for less than 60 months at the time that the plan terminates, or (2) any increase in the amount of basic benefits under a plan resulting from a plan amendment within 60 months before the date of plan termination.

Standard terminations

After SEPPAA, a single-employer defined benefit pension plan may be voluntarily terminated only in a standard termination or in a distress termination. A plan may be ter-

minated in a standard termination only if it has sufficient assets to pay all benefit commitments under the plan. Benefit commitments are greater than guaranteed benefits, and include all benefits guaranteed by the PBGC and all benefits that would be guaranteed but for the dollar limit on the guarantee or the length of time the benefit has been in existence (the phase-in rule). In addition, benefit commitments include early retirement supplements or subsidies and plant closing benefits with respect to participants who have satisfied all conditions for entitlement prior to termination, without regard to whether such benefits are guaranteed.

Benefit commitments are less than plan termination liability. Termination liability represents all benefits that have been promised under the plan up to the date of plan termination, and consists of all fixed and contingent liabilities to plan participants and beneficiaries. Benefit commitments can be significantly less than termination liability. For example, benefit commitments do not include benefits that vest solely due to plan termination or contingent benefits (such as early retirement benefits) for which the participant has not satisfied all conditions for entitlement prior to termination; these benefits are, however, included in termination liability.

If a plan is terminated in a standard termination so that the plan assets are sufficient to satisfy benefit commitments, then the employer has no further liability to plan participants, even if the plan is not sufficiently funded to meet termination liabilities.

Distress terminations

A plan with assets insufficient to provide benefit commitments may be terminated in a distress termination only if the PBGC determines that each contributing sponsor and each substantial member of the contributing sponsors' controlled group satisfies at least 1 of 4 distress standards established by SEPPAA. An entity is a contributing sponsor if it (1) is responsible for funding the plan or (2) is a member of the controlled group of an entity that is responsible for funding, has been responsible for funding the plan, and has employed a significant number of participants under the plan while it was so responsible. The term "controlled group" means a group of entities under common control. A "substantial member" of a controlled group is generally any entity whose assets comprise at least 5 percent of the assets of the controlled group.

In order to terminate a plan in a distress termination, a plan administrator is required to demonstrate that each contributing sponsor and each substantial member of each contributing sponsor's controlled group meets one of the following criteria: (1) a petition in bankruptcy or a State insolvency proceeding has been filed seeking liquidation of the entity and the petition has not been dismissed; (2) a petition in bankruptcy or a State insolvency proceeding has been filed seeking reorganization of the entity (or a case described in (1) has been converted to a reorganization), the petition has not been dismissed, and the bankruptcy court has approved the plan termination; (3) unless a distress termination occurs, the entity will be unable to pay its debts when due and will be unable to continue in business; or (4) with respect to the entity, the costs of providing pension coverage have become unreasonably burdensome, solely as a result of a decline in the workforce covered as participants under single-employer defined benefit pension plans of which the entity is a contributing sponsor.

In a distress termination, if there are benefit commitments in excess of PBGC-guaranteed benefits that cannot be paid out of current plan assets ("outstanding benefit commitments"), then the PBGC is required to appoint an independent fiduciary with respect to a special termination trust maintained for the benefit of participants. Each contributing sponsor of the plan and each member of the controlled group of a contributing sponsor is jointly and severally liable to the termination trust for the lesser of (1) 75 percent of the outstanding benefit commitments, or (2) 15 percent of the total benefit commitments.

In general, payment of liability by a contributing sponsor to a termination trust is to be made under commercially reasonable terms, with deferrals of certain amounts in years in which no person liable for the payment has pre-tax profits. Such deferred amounts are only payable after similar deferrals with respect to liability to the PBGC have been paid in full. However, there is no assurance that amounts will not be paid to plan participants before the employer's full liability to the PBGC has been discharged.

In a distress termination, if the plan assets are insufficient to fund guaranteed benefits, each contributing sponsor and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) the outstanding balance of any accumulated funding deficiency, and (2) the balance of the amount of any waived funding deficiencies. The full amount of a contributing sponsor's liability to the PBGC is due and payable as of the date of plan termination.

In addition, upon the termination of a plan pursuant to a distress termination, each contributing sponsor of the plan and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) the total amount of all unfunded guaranteed benefits, up to 30 percent of the collective net worth of the entities that are liable, (2) the excess of 75 percent of the unfunded guaranteed benefits over 30 percent of the collective net worth of the entities that are liable, and (3) interest on such amounts from the date of termination. Payment of this liability is generally to be made based on commercially reasonable terms, with deferrals of certain amounts in years in which the liable entities have no pre-tax profits.

The rules described above apply without regard to whether the employer or any member of the controlled group also maintains one or more plans that have assets in excess of termination liabilities.

PBGC claims in bankruptcy

Under present law, up to the 30-percent of net worth limit, the PBGC's claim has the priority status of a Federal tax for bankruptcy purposes. The remainder of the PBC's claim generally has a lower priority status, that of an unsecured claim.

Termination by PBGC

The PBGC is authorized to commence proceedings to terminate a plan under certain circumstances and is required to do so if the plan does not have assets available to pay benefits that are currently due under the terms of the plan.

Reasons for Change

Standards for termination

The SEPPAA distress termination standards still permit ongoing, healthy companies to shift liabilities to the PBGC. Under SEPPAA, an employer in financial distress may terminate an underfunded plan pursuant to a reorganization while operating at a profit following the reorganization. This ability may also create a competitive disadvantage for other companies in the same industry that have not reorganized and have not reduced their liabilities. It is believed that a distress termination should not be available in these circumstances.

Lien rules

While eliminating a reorganization as a condition permitting a distress termination, it is believed that it is appropriate to add safeguards to protect the PBGC's and participants' interest in a reorganization or other bankruptcy proceeding.

The GAO Report stated that, as of January 1986, the PBGC had recovered or expected to recover only 14 percent of its total claims in 1983-1985. The report concluded that this low recovery was due to 2 factors. First, recovery was low because the 30 percent of net worth limit on employer liability prevented the PBGC from recovering the full amount of guaranteed benefits. Second, the PBGC claim has priority status in bankruptcy only up to the 30 percent of net worth limit. Because most claims for due but unpaid contributions exceed this limit, they (with limited exceptions) have a low priority in bankruptcy, that of an unsecured claim. Contributions that were due but unpaid as of the termination were the cause of 30 percent of the PBGC's claims in 1983-1985.

The GAO report concluded that increasing liability to the PBGC would improve the recovery rate, but would not be sufficient to reduce the potential liability of the PBGC. According to the report, a major problem continues to be the low priority of PBGC claims in bankruptcy. SEPPAA increased the ability of the PBGC to secure its claim by requiring security in the case of certain funding waivers. Even if SEPPAA had been in effect with respect to the claims on the PBGC during 1983-1985, however, the GAO found that only 4 percent of the total claims for the period could have been secured by the PBGC. The report recommended that the priority of PBGC claims in bankruptcy be increased.

It is believed that appropriate measures are necessary in order to better protect the PBGC and plan participants in the case of bankruptcy. Accordingly, the amendment provides that the plan is entitled to security in certain cases in which there is risk of loss to the PBGC or plan participants.

Employer liability

Present law places limits on the liability of the employer to plan participants and the PBGC. Under present law, plan participants may lose their right to pension benefits if a plan is terminated with assets less than termination liability because the employer is not fully liable for unfunded benefits and because the PBGC has no liability for benefits in excess of guaranteed benefits. Similarly, if a plan terminates with assets less than guaranteed benefits, the PBGC may not be made whole with respect to the benefits it pays participants because the employer is not fully liable to the PBGC for unfunded guaranteed benefits.

The limits to employer liability under present law may also adversely affect the funding of plans because certain employers have insufficient incentive to fund a plan in excess of the level of benefit commitments. This disincentive may increase the likeli-

hood that participants will not receive their full pension benefits and that the PBGC will have to provide unfunded guaranteed benefits.

In order to encourage employers to fund promised benefits, ensure that plan participants receive promised benefits, and ensure that the PBGC is made whole with respect to guaranteed benefits it pays, it is believed that employers should be fully liable for their pension promises.

Explanation of Provisions

Employer liability

Under the amendment, the required plan asset level for a standard termination is increased from the present-law requirement of benefit commitments to the full level of the plan's termination liability to participants. As under present law, the plan's termination liability is all liabilities to employees and their beneficiaries under the plan, and includes all fixed and contingent benefits that would be provided if the plan had sufficient assets (Code sec. 401(a)(2)). Of course, such liability is to be determined without regard to the level of plan assets.

Under the amendment, a defined benefit pension plan with assets insufficient to provide its termination liability to participants is unable to terminate unless the employer (and controlled group) can satisfy the criteria for a distress termination. Following a distress termination, the employer's (and controlled group's) liability to participants is increased from the present-law percentage of benefit commitments to the full amount of the plan's unfunded termination liability to the extent not guaranteed by the PBGC, and the employer's (and controlled group's) liability to the PBGC is increased to the full amount of unfunded guaranteed benefits.

Standards for termination

The amendment provides that a reorganization does not qualify as a condition under which a distress termination is permitted. Thus, under the amendment, in order to terminate a plan in a distress termination, a plan administrator is required to demonstrate that each entity that is a contributing sponsor or a member of a contributing sponsor's controlled group meets one of the following criteria: (1) a petition in bankruptcy or a State insolvency proceeding has been filed seeking liquidation of the entity and the petition has not been dismissed or converted to a petition seeking reorganization, (2) unless a distress termination occurs, the entity will be unable to pay its debts when due and will be unable to continue in business, or (3) with respect to the entity, the costs of providing pension coverage have become unreasonably burdensome, solely as a result of a decline in the workforce covered as participants under single-employer pension plans of which the entity is a contributing sponsor.

Lien rules

Consistent with the increase in the liability of the employer to the PBGC, the amendment removes the 30-percent of net worth limitation on the amount of the PBGC lien that arises upon plan termination.

In addition, under the amendment, a statutory lien arises in favor of the plan to the extent that as of the close of a plan year (1) the plan's assets are less than 70 percent of current liability and (2) the unfunded current liability exceeds $25 million. The unamortized portion of the plan's unfunded old liability amount is disregarded in making these determinations. The lien is on all property and rights to property, whether real or personal, belonging to the contributing sponsor and the members of the contributing sponsor's controlled group.

The lien arises on the first day of the plan year following the plan year in which the determination is made, and continues until the close of the plan year in which the plan is not described in (1) or (2) above. If, from one plan year to the next, the level of unfunded current liability increases, the amount of the lien is increased by the amount of the increase in plan underfunding. The employer is required to notify the PBGC when the plan is described in (1) and (2) above.

Rules similar to the rules in section 4068(c), (d), and (e) of ERISA apply with respect to the lien and the amount on which it is based. As under section 4068(c), a perfected lien is treated as a Federal tax lien, and an unperfected lien is treated as a Federal tax claim. In addition, any lien created by this provision may be perfected and enforced by the PBGC or, at its direction, by the contributing sponsor or any member of the controlled group of the contributing sponsor.

Effective Dates

The provisions are generally effective in the case of terminations where notice to the PBGC is provided after October 16, 1987, and terminations instituted by the PBGC after October 16, 1987. The provision creating a lien where unfunded current liability exceeds certain levels is effective with respect to plan years beginning after the date of enactment.

4. Employer Access to Assets of Overfunded Plans

Present Law

Access to plan assets

Under present law, a trust forming part of a pension plan is not qualified under the Code unless it is impossible under the trust instrument, prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the trust assets to be used for, or diverted to, purposes other than for the exclusive benefit of employees or their beneficiaries. However, upon termination of the plan and after satisfaction of all fixed and contingent liabilities of the participants and beneficiaries (termination liability), the employer may recover any excess assets remaining in the trust that are due to erroneous actuarial computations.

Similarly, under ERISA, the assets of an employee benefit plan may not inure to the benefit of any employer and are to be held for the exclusive purpose of providing benefits to participants in the plan and their beneficiaries and of defraying reasonable expenses of administering the plan. However, any excess assets of a plan may be distributed to the employer upon termination of the plan if (1) all liabilities of the plan to participants and their beneficiaries have been satisfied, (2) the distribution does not contravene any provision of law, and (3) the plan provides for such a distribution.

Under present law, whether the employer has the right to the excess assets of a pension plan or is required to share the excess assets with plan participants is generally determined under the plan document. Thus, if the plan document provides that the employer is entitled to the reversion of excess assets, the employer is not required to share the reversion with participants. A majority of the cases provide that, subject to any applicable collective bargaining agreements, a plan may be amended at any time prior to termination of the plan to provide that the excess assets may revert to the employer.

Upon termination of a plan, all benefits as of the date of termination are required to become 100 percent vested and nonforfeitable. In addition, benefits generally are to be distributed or annuitized.

Implementation guidelines

Although an employer is not permitted to recover excess assets except upon termination of a plan, certain procedural guidelines permit transactions that, in effect, permit the withdrawal of assets from an ongoing plan. Typical examples of such transactions are termination-reestablishment and spinoff-termination transactions.

In a termination-reestablishment transaction, the employer terminates a defined benefit plan, recovers the excess assets, and then establishes a "new" plan that generally covers the same employees and provides the same or substantially similar benefits as the old plan. In a spinoff-termination transaction, a single plan is split into 2 plans, 1 plan covering retirees and 1 covering active employees. The excess assets are allocated to the plan covering retirees. That plan is then terminated, allowing the employer to recover the excess assets.

In response to concern that reversions can reduce the security of participants' benefits, procedural guidelines were developed jointly by the Department of the Treasury, the Department of Labor, and the PBGC. The procedures, referred to as the "Implementation Guidelines for Terminations of Defined Benefit Pension Plans" or the "Implementation Guidelines," were issued by the Administration as a news release on May 24, 1984.

The Implementation Guidelines set forth administrative procedures for processing certain terminations of qualified defined benefit pension plans involving reversions of excess assets to the plan sponsor. The guidelines generally provide that a bona fide termination of a defined pension plan will be recognized as having occurred under either a spinoff-termination or a termination-reestablishment transaction only if certain conditions are met.

A spinoff-termination is considered bona fide under the guidelines only if (1) the benefits of all employees are vested as of the date of the termination; (2) all benefits accrued by all employees as of the date of the termination are provided for by the purchase of annuity contracts; (3) the continuing plan adopts a special amortization period (with the approval of the IRS); and (4) appropriate notice is provided to employees.

Under the Implementation Guidelines, termination-reestablishment transactions are generally recognized as bona fide. If the new plan provides credit for service before that plan was adopted, however, the guidelines do not treat the transaction as bona fide unless a special amortization period is adopted (with the approval of the IRS).

The guidelines note that spinoff-terminations or termination-reestablishments may affect the qualified status of plans because the Code requires that qualified plans be permanent. The guidelines generally provide that the permanency requirement prohibits an employer that has engaged in a spinoff-termination or termination-reestablishment transaction from engaging in another such transaction for at least 15 years.

Reasons for Change

It is believed that the present law standards, as reflected in the Implementation

Guidelines, and the present-law excise tax on reversions are appropriate rules for addressing the issue of employer access to excess plan assets.

Explanation of Provision

The amendment confirms present law as contained in the Implementation Guidelines.

Effective Date

The provision is a clarification of present law.

5. Increase in PBGC Premium Rates (sec. 4560 of the bill)

Present Law

In general

The PBGC was created in 1974 by ERISA to provide an insurance program for benefits under defined benefit pension plans maintained by private employers. According to the PBGC's latest annual report, the single-employer insurance program currently covers more than 30 million participants in more than 110,000 defined benefit pension plans. PBGC revenues include premiums charged to defined benefit pension plans, earnings on investments, and collections from sponsors of terminated plans.

Premiums

Since its inception, the pension insurance program has charged a flat-rate premium based on the number of plan participants. ERISA initially authorized an annual per-participant premium of $1.00. The premium rate was raised to $2.60 for plan years beginning after December 31, 1977. SEPPAA increased the rate to $8.50, effective for plan years beginning after December 31, 1985.

Liability for premiums

Under present law, the plan administrator is liable for the payment of premiums.

Reasons for Change

In light of the PBGC deficit, a raise in the PBGC premium is needed. In its report, the GAO estimated that annual premium revenues of $446 million would be needed to retire a $4 billion deficit over 15 years at the PBGC's current interest rates. Projected annual revenue, however, is only $298 million, or 33 percent less than $446 million. Further, the GAO concluded that additional revenues would be needed to pay future expected claims and the program's administrative expenses.

It is believed that it is equitable to base the increased PBGC premium in part on the extent of a plan's underfunded status so that the premium reflects in part the potential PBGC liability created by the plan. However, basing the entire increase on a plan's underfunded status would unduly burden financially distressed plans and employers and could lead to a greater crisis for the PBGC if a significant percentage of these plans were terminated. Thus, it is believed that some of the necessary revenues should be derived from an increase in the flat premium.

As under the minimum funding rules, it is believed that the employer sponsoring a plan and related employers should be responsible for liabilities associated with the benefits promised under the plan. Thus, it is believed that the employer sponsoring the plan and all related employers should be liable for payment of the premium.

Explanation of Provision

Under the amendment, the flat-rate per-participant PBGC premium is increased to $14. In addition, the amendment applies an exposure-related per-participant premium based on the amount of potential liability the plan creates for the PBGC.

The exposure-related per-participant premium is determined by dividing an amount based on the plan's unfunded current liability by the number of plan participants in the plan at the end of the preceding plan year. The amount based on unfunded current liability is $6.00 for each $1,000 of unfunded current liability as of the end of the preceding plan year.

The additional per-participant premium is not to exceed $70 (indexed beginning in 1989 in accordance with the social security benefit and contribution base).

The $70 cap (indexed) is reduced in the case of certain plans. If an employer made the maximum deductible contributions to the plan for 1 or more of the 5 plan years preceding the first plan year beginning after December 31, 1987 (i.e., for a calendar year plan year, 1983–1987), then the cap on the exposure-related premium is reduced by $10 for each plan year for which such contributions were made. The $10 amount is indexed at the same time and same manner as the $70 cap. This special rule operates to reduce the exposure-related premium only for the first 5 plan years the premium is in effect.

As under the new funding rules, the exposure-related premium does not apply to any plan that has no more than 100 participants on each day of the preceding plan year. For purposes of this 100-participant rule, all defined benefit plans (including multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) are treated as one plan. With respect to multiemployer plans, only employees of the employer (or controlled group) are taken into account. In the case of a plan with more than 100 but less than 150 participants on each day during the preceding plan year, the amount of the exposure-related premium is determined by multiplying the otherwise required additional premium by 2 percent for each participant in excess of 100.

In addition, the special rule disregarding certain pre-participation service in calculating current liability under the funding rules applies in calculating current liability for purposes of the exposure-related premium. However, for premium purposes pre-participation years of service are taken into account if the participant has 5 or more years of service.

The amendment also provides that, with respect to a single-employer plan, the contributing sponsor, as well as the plan administrator, is liable for payment of the premium and that each member of the contributing sponsor's controlled group is jointly and severally liable for such payment.

Under the amendment, all amounts related to the exposure-related premium and the increase in the flat-rate premium are to be deposited in a separate revolving fund. Amounts in this fund may not be used to pay administrative costs of the PBGC or benefits under any plan terminated before January 1, 1988, unless no other amounts are available.

Effective Date

These provisions apply to plan years beginning after December 31, 1987.

6. Multiemployer Plans

The provisions described in 2 through 5, above, do not apply to multiemployer plans.

G. ESTATE AND GIFT TAXES

Retention of 1987 Rates for 2 Years (sec. 4561 of the bill and sec. 2001 of the Code)

Present Law

The estate and gift taxes are unified, so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. The generation-skipping transfer tax is computed by reference to the maximum Federal estate tax rate.

For 1987, the gift and estate tax rates begin at 18 percent of the first $10,000 of taxable transfers and reach 55 percent on taxable transfers over $3 million. For transfers occurring after 1987, the maximum gift and estate tax rate is scheduled to decline to 50 percent for taxable transfer over $2.5 million.

Reasons for Change

It is inappropriate to permit revenue from existing taxes to be reduced at a time when additional revenues are needed to reduce the budget deficit.

Explanation of Provision

The scheduled decline in gift and estate tax rates is deferred for two years. The maximum rate declines to 50 percent for decedents dying, and gifts made, after December 31, 1989.

Effective Date

The provision is effective for decedents dying, and gifts made, after December 31, 1987.

H. EXCISE TAXES

1. Telephone Excise Tax: 3-Year Extension (sec. 4571 of the bill and sec. 4251 of the Code)

Present Law

A 3-percent excise tax is imposed on amounts paid for local telephone service, toll (long-distance) telephone service, and teletypewriter exchange service (Code sec. 4251). The tax is scheduled to expire after December 31, 1987.

Exemptions from the tax are provided for communications service furnished to news services (except local telephone service to news services), international organizations, the American National Red Cross, servicemen in combat zones, nonprofit hospitals and educational organizations, State and local governments, and for toll telephone service paid by a common carrier, telephone or telegraph company, or radio broadcasting company in the conduct of its business. Exemptions are also provided for installation charges, certain coin-operated service, and private communications systems (e.g., certain dedicated lines leased to a single business user).

Reasons for Change

It is inappropriate to permit existing taxes to expire at a time when additional revenues are needed to reduce the budget deficit. Therefore, it is felt that a 3-year extension of the telephone excise tax is appropriate in view of the existing budgetary deficit situation.

Explanation of Provision

The amendment extends the current 3-percent telephone excise tax for 3 years, through December 31, 1990.

Effective Date

The provision is effective for telephone bills rendered after December 31, 1987, and before January 1, 1991.

2. Collect Diesel Fuel and Special Motor Fuels Taxes on Sales to Retailer (sec. 4572 of the bill and sec. 4041, 4101, 6421, and 6427 of the Code)

Present Law

The diesel fuel and special motor fuels excise taxes generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel. Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

Reasons for Change

Imposition of the tax at the retail level has fostered inefficient collection procedures and encouraged tax avoidance schemes because there are many tax collectors at the end of a long marketing chain. Imposing these taxes at an earlier stage in the marketing of these fuels would reduce opportunities for evading payment of the fuels taxes. Collection of excise taxes at the point in the distribution chain with a smaller number of taxpayers provides for more efficient administration of the tax since there are fewer taxapayers for the Internal Revenue Service to monitor. Furthermore, collecting these excise taxes at a uniform marketing level eliminates any special advantage for a single industry segment, e.g., integrated operations versus independent wholesale dealers.

Explanation of Provision

The excise taxes on diesel and special motor fuels and nongasoline aviation fuels are imposed on sales by importers and producers; wholesale distributors may elect to be treated as producers, if they satisfy registration and bonding requirements to be established by Treasury.

The provisions of present law permitting tax-free sales for certain exempt purposes are repealed. Instead, taxpayers who purchase such fuels for nontaxable uses may claim refunds or credit the amount of tax they paid against their income tax liability. In addition, Treasury is authorized to require such information reporting and registration that is necessary to prevent evasion of the tax.

Effective Date

The provision is effective on January 1, 1988.

3. Extension of Termination Date for Coal Excise Tax Rate (sec. 4573 of the bill and sec. 4121 of the Code)

Present Law

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (Code sec. 4121). Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the rate of tax was increase, effective April 1, 1986, to $1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Amounts equal to the revenues collected from the coal excise tax are appropriated automatically to the Black Lung Disability Trust Fund. The Trust Fund pays certain black lung disability benefits to coal miners (or their survivors) who have been disabled by black lung disease in cases where no coal mine operator is found specifically responsible for the individual miner's disease.

Under present law, the tax rate is scheduled to revert to 50 cents on underground coal and 25 cents on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to the Trust Fund, and (2) no unpaid interest on such advances.

Reasons for Change

It was concluded that the termination date for the coal excise tax rate presently in effect should be extended in order to provide for the long-term solvency of the Black Lung Trust Fund. As of the beginning of fiscal year 1987, the Trust Fund deficit (i.e., the amount of advances repayable to the general fund) was $2.9 billion.

Explanation of Provision

The termination date for the coal excise tax rate enacted in COBRA is extended from January 1, 1996 to the earlier of (1) January 1, 2014 or (2) the date the Trust Fund achieves solvency (as defined under the present-law termination provision).

Effective Date

The extension of the termination date for the present-law coal excise tax rate is effective from January 1, 1996 to January 1, 2014, subject to the solvency provision described above.

I. EMPLOYMENT TAXES

1. Railroad Retirement Provisions (secs. 4581–4584 of the bill and secs. 3201 and 2331 of the Code)

Present Law

The Railroad Retirement Program consists of a tier I benefit structure which is generally equivalent in benefits and financing to the Social Security program and a separately financed tier II benefit structure. Under present law, the tier II program is financed primarily by a payroll tax of 14.75 percent for employers and 4.25 percent for employees. This tax is applied to wages up to $32,700 per year. (This wage base amount is increased annually by the increase in average annual wages in the general economy.)

Tier II benefits are includible in income for income tax purposes in the same manner as benefits received under a qualified pension plan. However, the 1983 amendments to the Railroad Retirement Program appropriate from the general fund to the Railroad Retirement Account an amount equal to the increase in income tax liability that results from including tier II benefits in income. This appropriation to the Railroad Retirement Account is limited to an aggregate total of $877 million and applies only to benefits received prior to October 1, 1988.

Reason for Change

The 1983 amendments to the Railroad Retirement Program require an annual report on the solvency of the program. The 1987 report includes an analysis by the chief actuary of the program indicating that program is inadequately funded and recommending changes to address the situation. The chief actuary also recommends the establishment of a board to study whether fundamental changes in method of paying for the program need to be considered by the Congress.

Explanation of Provisions

Increase in railroad retirement tax

The provision increases the employer tier II tax by 1.35 percentage points to 16.1 percent. The employee rate is increased by 0.65 percentage points to 4.9 percent.

Commission on Railroad Retirement Reform

The provision also establishes an eight-member Commission to study alternative methods of securing the long-range solvency of the Railroad Retirement Program. The President is to appoint four members, representing railroad management, railroad labor, commuter railroads, and the general public. The President pro tempore of the Senate is to appoint two members representing the general public after consultation with the Chairman of the Senate Committees on Finance and on Labor and Human Resources. The Speaker of the House of Representatives is to appoint two members representing the general public after consultation with the Chairmen of the Committees on Ways and Means and on Energy and Commerce. The Commission is to submit its findings to the Congress by October 1, 1989.

The provision also eliminates the $877-million limit on the amount of general funds that are appropriated to the Railroad Retirement Account on the basis of income taxes on tier II benefits, and provides that such appropriations will be made for two additional years based on tier II benefits paid through September 30, 1990.

Effective Date

The tax rate increases are effective for wages paid after December 31, 1987. The other provisions are effective upon the date of enactment.

2. FUTA Tax: Three-Year Extension of Repayment Tax; Transfer of Funds into the Federal Unemployment Account (secs. 4585–4586 of the bill, sec. 3301 of the Code, and sec. 90 of the Social Security Act)

Present Law

The Federal Unemployment Tax Act (FUTA) generates revenues which are allocated among several accounts in the Federal Unemployment Trust Fund. Funds in the Employment Service Administration Account are used to meet the Federal and State administrative costs of operating unemployment compensation programs and most of the cost of Employment Service operations. The Extended Unemployment Compensation Account (EUCA) is used to meet half the cost of extended unemployment benefits (EB), which are paid in times of unusually high unemployment. (The other half of EB costs are funded from State unemployment taxes.) The Federal Unemployment Account (FUA) is a reserve account from which States may borrow funds in the event the State unemployment account is temporarily unable to meet benefit liabilities.

Each of these accounts in the Trust Fund has a statutory ceiling. When the ceiling is reached, excess funds are distributed among the account according to rules specified in Title IX of the Social Security Act. When all of these accounts reach their ceiling levels, any excess amounts would be distributed to the State unemployment accounts in the Trust Fund.

The gross Federal unemployment tax rate is 6.0 percent, plus a temporary 0.2-percent rate enacted in 1976. In general, employers qualify for a credit of 5.4 percentage points against this tax, leaving a net Federal tax of 0.6 percent plus the temporary 0.2 percent. The tax is paid by employers on the first $7,000 of annual earnings of each employee. (In some States, the 5.4-percent credit is reduced to recover outstanding State loans from FUA.)

The temporary 0.2-percent additional rate was added in order to repay borrowing of the Federal Unemployment Trust Fund from the general fund of the Treasury

during the mid 1970's. The outstanding indebtedness was repaid this year, and the additional tax will terminate at the end of 1987.

Reasons for Change

While the EUCA account has fully repaid the outstanding borrowing from the general fund of the Treasury, the experience of the 1970's indicates that the Unemployment Fund may need to accumulate a higher level of reserves than provided under present law, in order to have reasonable assurance of weathering economic cycles without undue reliance on general fund borrowing.

Explanation of Provisions

The temporary 0.2-percent additional FUTA tax rate is to be continued for three additional years, through 1990. The statutory ceilings on the EUCA and FUA accounts are increased in order to accommodate the additional revenue generated by extending the tax rate. The EUCA account ceiling is increased from ⅛ of the amount of total annual wages to ⅜ of total annual wages. The FUA account ceiling is increased from ⅛ of total annual wages to ⅝ of total annual wages.

Effective Date

The provision is effective for wages paid during calendar years 1988 through 1990.

3. FICA Tax Provisions

a. Expand employer share of FICA tax to include all cash tips (sec. 4587 of the bill and sec. 3121(q) of the Code)

Present Law

The FICA taxes imposed on the employee and the employer generally are equal. The employer is responsible for withholding the employee's share of the tax from the employee's wages and remitting the tax, together with the employer's share of the tax, to the Internal Revenue Service.

Special rules apply to tips. For purposes of the employee FICA tax, all tips received by an employee are considered remuneration for services and are subject to the tax. The tips generally are deemed to be received at the time the employee files a written statement with the employer reporting the receipt of the tips. Tips are subject to FICA taxes only in the case of employees who receive at least $20 in cash tips in a month. Tips in a medium other than cash are not subject to FICA taxes.

However, the full amount of tips received by an employee usually is not subject to the FICA tax imposed on the employer. For purposes of the employer's share of FICA taxes, the employee is deemed to receive wages only to the extent of the excess of the Federal minimum wage rate over the actual wage rate paid by the employer. Any tips received in excess of the difference between the wages paid and the minimum wage are not subject to the employer's portion of the tax.

Reasons for Change

Under present law, an employee is required to pay FICA taxes on the total amount of his or her cash tips up to the Social Security wage base. The employer, however, is required to pay FICA taxes only on a portion of the tips. Because Social Security benefits are determined with respect to the entire amount of tips, current law in effect provides a benefit to employers whose employees receive part of their compensation in the form of tips, as compared to other employees who receive all their compensation as salaries. It is believed that to apportion the costs of Social Security benefits more accurately, employers should be subject to tax on all tips which are credited for benefit purposes.

Explanation of Provision

Under this provision, all cash tips which are subject to the employee FICA tax are included within the definition of wages for purposes of the employer's share of FICA taxes. Thus, employers must pay FICA taxes on the total amount of cash tips and other remuneration, up to the Social Security wage base.

Effective Date

This provision is effective for remuneration received on or after January 1, 1988.

b. Extend FICA tax to include inactive duty earnings of military reservists and certain other earnings (secs. 4588, 4589, 4591, and 4592 of the bill and secs. 209 and 210 of the Social Security Act)

Present Law

Under present law, certain forms of earnings paid to employees are exempt from FICA taxes. These earnings include the following:

Armed Forces reservists.—Approximately 1.4 million Armed Forces reservists do not receive credit for Social Security benefits and are not subject to Social Security (FICA) taxes for inactive duty earnings paid for "inactive duty training." Earnings from fulltime active duty or from "active duty for training" (training sessions lasting several weeks) constitute covered employment under current law.

Agricultural workers.—Cash renumeration paid to an employee in any taxable year for agricultural labor is excluded from the definition of wages unless the employee receives more than $150 during the year for such labor or the employee works for the employer more than 20 days during the year and is paid on a time basis.

Individuals aged 18-21.—Services performed by individuals under age 21 who are employed by their parents, even if employed in the parent's trade or business, do not constitute covered employment under present law.

Spouses.—Services performed by an individual in the employ of a spouse do not constitute covered employment.

Reasons for Change

It is believed that the wages of the particular groups of employees described above should receive the same treatment generally accorded other wages for FICA tax purposes. These provisions also ensure that these individuals receive Social Security coverage (including disability and survivor benefits).

Explanation of Provision

The amendment extends credit toward Social Security benefits, and imposed FICA taxes, with respect to services performed by reservists in "inactive duty training"; to services performed by individuals aged 19-21 working for their parents in a trade or business; and to services performed by an individual in the employ of his or her spouse's trade or business.

The amendment also requires, with respect to agricultural labor, that: (1) any remuneration for agricultural labor paid by an employer to an employee constitues wages for FICA purposes if the employer pays more than $2,500 to all employees for such labor during the taxable year; (2) the $150 annual cash pay test is to be applied if the $2,500 annual payroll test is not met; and (3) the 20-day test be eliminated.

Effective Date

These provisions are effective January 1, 1988.

c. Treatment of group-term life insurance as wages under FICA (sec. 4590 of the bill and sec. 209 of the Social Security Act)

Present Law

The cost of group-term life insurance provided by an employer to an employee is excluded from the definition of wages for purposes of the FICA tax. For income tax purposes, the cost of employer-provided group-term life insurance is includible in an employee's gross income to the extent that the coverage exceeds $50,000. Additionally, the total amount of employer-provided group-term life insurance is included in an employee's gross income to the extent that the coverage is provided on a discriminatory basis (sec. 89).

Reasons for Change

It is believed that the FICA tax treatment of group term life insurance provided by an employer for an employee should be conformed to the treatment of such benefit for income tax purposes.

Explanation of Provision

The provision treats the cost of employer-provided group-term life insurance as wages for FICA tax purposes to the extent such cost is includible in gross income for income tax purposes.

Effective Date

The provision is effective January 1, 1988.

J. USER FEES

1. Internal Revenue Service Fees (sec. 4595 of the bill)

Present Law

The Internal Revenue Service (IRS) currently provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS responds to these inquiries through the issuance of letter rulings, determination letters, and opinion letters.

A letter ruling is a written statement issued by the National Office of the IRS that interprets and applies the tax law to a specific set of facts. A letter ruling generally is followed by the IRS on audit in determining the tax liability of the recipient of the ruling.

A determination letter is a written statement issued by a district director of the IRS that applies principles previously announced by the National Office of the IRS to a specific set of facts. A determination letter generally is issued in the same circumstances as a letter ruling and is followed by the IRS on audit in determining the tax liability of the recipient of the letter. Most determination letters involve the qualification of retirement plans and the status of organizations seeking exemption from tax.

An opinion letter is a written statement issued by the National Office of the IRS that addresses the acceptability of the form of a master or prototype pension plan and any related trust or custodial account.

The IRS currently does not charge taxpayers for issuing letter rulings, determination letters, or opinion letters.

Reasons for Change

It is believed that, as the Administration has proposed in the last several budgets, the relatively small number of persons that request letter rulings, determination letters, and opinion letters should pay for the benefits of these services. It is also believed that

the provision should not be made permanent at this time so that the Congress may examine the impact of the provision on taxpayer compliance.

Explanation of Provision

The amendment requires the IRS to charge a fee for each request for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. The amount of the fee is to vary based on the type of request, as follows:

Category:	Fee
Employee plan ruling and opinion	$400
Exempt organization ruling	320
Employee plan determination	250
Exempt organization determination	200
Chief counsel ruling	200

The IRS is authorized to vary the amount of the fee charged for subcategories of requests based on the average time for (and the difficulty of) complying with requests in the subcategories. In addition, the IRS is authorized to provide exemptions and reduced fees. The IRS may vary the amount of the fee or provide exemptions or reduced fees only if the average fee charged during a fiscal year for requests in any category is not less than the fee listed above for that category.

The amount of the fee is payable in advance and is refundable only if the IRS refuses to respond to the request. The fee is not refundable if the person making the request withdraws the request prior to the issuance of the ruling or determination.

Effective Date

The provision applies to requests filed on or after the first day of the second calendar month that begins after the date of enactment. The provision does not apply to requests filed after September 30, 1990.

2. Extensions and Increases in Certain Alcohol, Tobacco, and Firearms Occupational Taxes (sec. 4596 of the bill and secs. 5091, 5111, 5121, 5131, 5271, 5801, and 5845 of the Code)

Present Law

Occupational taxes are imposed on numerous business activities involving the production and marketing of alcohol, tobacco, and firearms products. Brewers currently pay $110 per year for each brewery operated by them, except any brewer of fewer than 500 barrels a year pays $55 per year (sec. 5091). Manufacturers and importers of National Firearms Act (NFA) firearms pay a $500 per year occupational tax for each place of business, except a person who manufacturers or imports only weapons classified as "any other weapon" under section 5845(e) pays a tax of $25 per year (sec. 5801). No occupational taxes are imposed on distillers, wineries, or tobacco manufacturers.

Dealers in NFA firearms generally are subject to an annual occupational tax of $200 per place of business; dealers who deal only in weapons classified as "any other weapon" under section 5845(e) are subject to an annual tax of $10 per place of business (sec. 5801).

An annual $255 per place of business occupational tax is imposed on wholesale liquor dealers; an annual $123 tax is imposed on wholesale beer dealers (sec. 5111).

An annual occupational tax of $54 per place of business in imposed on retail liquor dealers; the tax is $24 per place of business for retail beer dealers (sec. 5121). A special tax of $4.50 per month in which sales are made is imposed on "limited retail dealers" in distilled spirits; the tax is $2.20 per month for limited retail dealers in beer and wine only (sec. 5121).

Persons permitted to use distilled spirits without payment of tax, or who deal in or use specially denatured distilled spirits, must obtain permits under present law, but no occupational tax is imposed on these persons with respect to this activity (sec. 5271).

Present law permits drawbacks (refunds) of the distilled spirits tax in certain cases. Persons receiving drawbacks of this tax for distilled spirits to be used for nonbeverage purposes are subject to an occupational tax based on the amount of alcohol used. The tax ranges from $25 per year (drawbacks not exceeding 25 proof gallons) to $100 per year (drawbacks exceeding 50 proof gallons) (sec. 5131).

Reasons for Change

The Bureau of Alcohol, Tobacco, and Firearms (BATF) incurs significant expenses in regulating the three industries over which it has jurisdiction. The President proposed in his budget that the direct beneficiaries of these regulatory provisions pay a greater share of the costs incurred by BATF.

The amendment generally concurs with the President's proposal. It was determined that the appropriate way to accomplish the proposal was to increase the present occupational taxes, which generally have not been increased since the early 1950s, and to impose those taxes more uniformly across the businesses affected.

Explanation of Provisions

The present producer/manufacturer occupational taxes are increased to annual amounts of $1,000 per place of business for producers of all taxable alcoholic beverages (distilled spirits, wine, and beer), manufacturers of all taxable tobacco products, and for firearms producers. A special rate of $500 per year applies to businesses having gross receipts of less than $500,000 in the preceding taxable year. For purposes of this special rate, all members of a controlled group of corporations (substituting 50 percent for the general 80 percent test of control) are treated as one business.

The present firearms dealer occupational tax is increased to $500 per year per place of business.

The present alcoholic beverage wholesale dealer occupational taxes are combined and imposed at an increased rate of $500 per year per place of business.

The present alcoholic beverage retail dealer occupational taxes are combined and imposed at an increased rate of $250 per year per place of business. The present occupational taxes on limited retail dealers are repealed. The retail dealer occupational tax further is extended to all persons required to acquire permits for tax-free use of distilled spirits under section 5271.

The three occupational tax rate for persons receiving drawbacks of the distilled spirits tax for spirits used in nonbeverage products are combined and increased to $500 per year per place of business.

Effective Date

These provisions are effective on January 1, 1988.

As under present law, the occupational taxes generally will continue to be paid for a period of 12 months, covering the period July 1-June 30. Thus, subject to special rules for the period January 1-June 30, 1988, all persons subject to tax under the provisions of the bill are liable for the entire annual tax on July 1, 1988.

For the period January 1-July 1, 1988, a series of special rules will apply. Persons initially subject to tax as a result of the provisions are liable for a tax equal to one-half of the otherwise applicable annual rate on January 1, 1988.

In the case of persons who paid an occupational tax during calendar 1987, for which no further tax is due until July 1, 1988, under present law, a tax is due on January 1, 1988, in an amount equal to one-half of the excess of the new tax rate for the occupation involved over the present-law rate.

3. Customs User Fees (sec. 4597 of the bill)

Present law

As enacted in the Omnibus Budget Reconciliation Act of 1986, an ad valorem user fee is applied to all formal entries of merchandise imported for consumption in the amount of 0.22 percent during fiscal year 1987, dropping to the lesser of 0.17 percent or the rate which will provide revenue equal to the appropriated level of customs' commercial operations in fiscal year 1988, and expiring September 30, 1989. The fee does not apply to articles classifiable in schedule 8 of the Tariff Schedules (including products containing U.S. components which are classifiable in item 807.00 of the Schedules and U.S. articles returning to the United States after having been processed abroad which are classifiable in item 806.30).

Reasons for Change

The customs user fees provisions are amended in response to concerns expressed by the Administration and the trading community based on experience with the users fees over the past year.

The Administration's budget proposal would have extended the customs users fees indefinitely and modified the schedule 8 exemption insofar as it applies to imported articles containing U.S. components. Although it is intended to adopt the Administration's recommendation with respect to the schedule 8 exemption, the program is extended for one additional year, to September 30, 1989, rather than extending it indefinitely. It is also intended that the amendment relate to a number of concerns about the way the program has been administered thus far which the Senate would like to see addressed satisfactorily before it will consider making this program permanent.

It is further intended that the amendment relate to particular concerns that the fundamental purpose of the program of providing adequate funding for the commercial operations of the Customs Service is not being met. During the first year of the program, the Office of Management and Budget did not allow any of the proceeds of the customs users fees account to be spent for the commerical operations of the Customs Service. Further, the Administration's budget proposal for the Customs Service for fiscal year 1988 once again called for a drastic reduction of 2,000 customs officers. Such cuts should not be necessary if the customs users fees program is being properly implemented.

The intention also is that the amendment modify current law dealing with the disposion of user fees and the manner of their application to fund Customs' commerical operations. This modification is designed to clarify current law in order to obviate administrative problems which have arisen from OMB's interpretation of current law. Under its interpretation, OMB has seen fit to maintain two user fees accounts, one for passenger and conveyance fees and another for the commerical operations fee on imports. Because certain legal requirements,

such as the procedure for recommending an increase or decrease in user fees, are triggered by the user fee account balance in relation to expenditures, it is believed that administration and oversight will be simplified if only a single Customs User Fees Account is established. All users fees are required to be deposited in a single Customs User Fees Account. Current law is to be further clarified by reiterating that funds deposited in the Customs User Fees Account be employed, to the extent provided in appropriations acts, to reimburse all costs of the Customs Service for commerical operations. Finally, the intention is to include provisions designed to ensure that operators of foreign trade zones and customs bonded warehouses would no longer be, in effect, assessed twice for customs transactions occurring at such facilities.

Explanation of Provision

The amendment changes these user fees provisions. First, the expiration date for the fees would be extended for one additional year, until September 30, 1990. Second, in order to avoid placing a double burden on operators of foreign trade zones and customs bonded warehouses, a provision has been added precluding the Customs Service from assessing an annual fee on such operators in addition to the per-entry fee that is now applicable to merchandise withdrawals from such facilities.

Third, the amendment changes provisions of present law that permit inporters to avoid the application of the users fees entirely if any portion of the imported article is of U.S. origin and eligible for duty-free treatment under items 806.30 or 807.00 of the Tariff Schedules. As amended, only the value of the U.S. components or materials which are eligible for duty-free treatment under such provisions would be exempt from the users fee. The value of the foreign components of the imported article would be subject to the fee.

To ensure that no additional recordkeeping burdens are imposed upon the public as a result of this amendment, the following simplified accounting requirements applicable to duty-free articles entering, or eligible for entry, under items 806.30 and 807.00 of the Tariff Schedules of the United States (TSUS) should be implemented. These requirements would apply to all imports of: (1) articles with U.S. content; (2) commingled merchandise consisting of articles with U.S. content and like or similar articles not containing U.S. content; and (3) articles exported from the United States for processing abroad and returned to the United States for further processing.

Importers may enter the articles on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business. The data would be calculated according to generally accepted accounting principles so as to establish the following for a one-year period: (1) the total value of all articles imported, based on U.S. customs principles of valuation; (2) for item 807.00 articles, the U.S. content portion of the value cited in item 1 value represented by processing abroad; and (3) for item 806.30 articles, the portion of the item 1 value represented by processing abroad. In this context, the valuation of all imports during an import year would be based on data from the prior import year and applied across-the-board to such imports, thereby eliminating discrete calculations with respect to articles, individual components contained within such articles, and individual entries. Accordingly, 1986 data would apply to 1987 imports, 1987 data to 1988 imports, and so on. It is intended that the term "import year" be defined as either a calendar year or some other 12-month cycle, depending on the accounting cycle utilized by the importer.

Upon termination of operations by an importer, a "catch-up" adjustment reflecting actual percentages from the year prior to the termination would be required to ensure that the importer has paid the appropriate amount of user fee. With the exception of this adjustment, or unless required by a Customs audit, no other adjustment or reconciliation in connection with user fee payments shall be required of the importer.

Fourth, the amendment adds clarifying language regarding the customs user fees. In the Budget Reconciliation Act of 1986, Congress required that the fees were to be placed in a dedicated account for expenditures for commercial operations of the Customs Service. The new language specifies that the fees are to be treated as receipts offsetting expenditures of salaries and expenses for commercial operations. The purpose is to make clear that it is inappropriate to treat the fees as revenues, as the Administration has done. In addition, the section clarifies that the user fees on passengers and conveyances are to be deposited in the same dedicated account as the ad valorem fees and, to the extent they are not needed to reimburse the Customs Service for expenses incurred in providing overtime inspectional services, they are to be used as receipts offsetting commercal operations expenditures.

K. COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES

3-Year Extension (sec. 4601 of the bill, sec. 6402 of the Code, and sec. 3702A of title 31, United States Code)

Present Law

Certain Federal agencies are authorized to notify the IRS that a person owes a past due, legally enforceable debt to the agency. The IRS then must reduce the amount of any tax refund due the person by the amount of the debt and pay that amount to the agency. This program expires after December 31, 1987.

Before a refund can be offset under this program, the agency which is owed a debt must certify to the Treasury that the debtor has been notified about the proposed offset and has been given at least 60 days to present evidence that all or part of the debt is not past due or not legally enforceable. If a refund otherwise due an individual is subject to offset both under this provision and because of AFDC past-due support, the offset for AFDC past-due support is implemented first.

Under IRS regulations, the program only affects refunds due individuals, not corporations.

Reasons for Change

A 3-year extension of the debt collection provisions is believed to be appropriate so that the Federal Government can use every means available to collect debts owed to Federal agencies that the agencies have been unable to collect themselves. It is not believed to be appropriate to permit existing debt collection provisions to expire at a time when additional revenues are needed to reduce the budget deficit. Moreover, expanding the debt collection program to apply to debts owed to all Federal agencies by individuals or corporations should enhance the effectiveness of the program.

Concern was also expressed, however, about the possible negative effect of this program on voluntary tax compliance. Therefore, the provision is extended for 3 years, which would provide the Congress with an additional opportunity to assess the effect of the program on voluntary tax compliance. Also, GAO is required to report on the impact of this program on voluntary tax compliance. This report will be an important element in assessing the effectiveness of the program.

Explanation of Provision

The amendment extends for 3 years the tax refund offset program. In addition, the amendment expands the scope of the program in two ways. First it applies to debts owed to all (not just selected) Federal agencies. Second, it applies to debts owed by either individuals or corporations.

Prior to the enactment of this amendment, some Federal agencies may take actions to notify a debtor of a proposed offset and to certify to the Treasury that a debt is owed, as required by section 3720A of title 31, United States Code. It is intended that these agency actions not be affected by the fact that they were taken before Congress enacted this 3-year extension of the Federal debt collection program.

Prior to the expiration date of December 31, 1990, this provision should be evaluated to determine the extent to which it facilitates the collection of debts owed the Federal Government and increases the amount of debts collected, as well as to examine the effects of this provision on voluntary taxpayer compliance with the income tax law. Therefore, GAO, in consultation with the Secretary of the Treasury, is required to report to the Congress on the effects of this program on voluntary tax compliance. This report is to provide and analyze data on the effects of the program, such as whether taxpayers whose refunds are offset continue to file tax returns and whether those taxpayers adjust their withholding so as to create additional tax collection difficulties.

Effective Date

The provision is effective on January 1, 1988, and expires after December 31, 1990. The report is due on April 1, 1989.

L. ESTATE TAX DEDUCTION FOR SALES TO AN ESOP

(Secs. 4611-4613 of the bill, sec. 1172 of the Reform Act, and secs. 409 and 2057 of the Code)

Present Law

In general

The Tax Reform Act of 1986 (sec. 1172 of the Act and sec. 2057 of the Code) adopted a special provision allowing partial relief from estate taxes through, an estate tax deduction for sales of employer securities to an employee stock ownership plan (ESOP) or an eligible worker-owned cooperative. This provision was adopted for a temporary period of time to encourage transfers of employer securities to ESOPs. The provision permits a deduction from the gross estate of a decedent equal to 50 percent of the proceeds received from a qualified sale of employer securities. Under the Act, a qualified sale is any sale of employer securities by the executor of an estate to an ESOP or an eligible worker-owned cooperative.

IRS Notice

IRS Notice 87-13 (January 5, 1987) provided that the estate tax deduction for transfers to an ESOP or worker-owned cooperative is not available unless (1) the decedent

directly owned the employer securities immediately before death, and (2) after the sale, the employer securities are allocated to plan participants or are held for future allocation in connection with an exempt loan under section 4975 or in connection with a transfer of assets from a defined benefit plan under the rules of section 4980(c)(3). Except in the case of a bona fide business transaction, employer securities are not treated as allocated or held for future allocation to the extent that such securities are allocated or held for future allocation in substitution of other employer securities that had been allocated or held for future allocation.

Reasons for Change

In enacting the estate tax deduction, Congress intended that it would be utilized in a limited number of transactions with a relatively modest revenue loss. As drafted, the estate tax deduction was significantly broader than what was originally contemplated by Congress in enacting the provision. It is necessary to conform the statute to the original intent of Congress in order to prevent a significant revenue loss under the Tax Reform Act of 1986.

While Congress intended to encourage transfers of employer securities to ESOPs by providing for partial elimination of estate tax liability, it was not intended that estates be able to eliminate all estate tax liability through use of the deduction or that the securities acquired in a transaction for which the deduction was claimed need not be allocated to plan participants. The provision would not have been adopted in its present form had the full extent of the revenue impact and effect of the provision been recognized.

It is now necessary to modify the provision to bring the revenue loss in line with the original estimate and Congressional intent. The modifications contained in the amendment (which are essentially identical to modifications proposed in S. 591, introduced by Senator Bentsen) are designed to achieve this result while maintaining to the fullest extent possible the incentive to transfer employer securities to ESOPs.

The primary thrust of the amendment is to conform the provision to the original intent of Congress in enacting the deduction. In this respect, the amendment has two elements.

First, the amendment makes clear that the positions taken by the Internal Revenue Service in Notice 87-13 with respect to the estate tax deduction are an accurate statement of Congressional intent in enacting the provision. If these clarifications are not made, taxpayers could qualify for the deduction by engaging in essentially sham transactions.

Second, the amendment makes additional changes in the deduction which more fully effectuate the intent of Congress to provide limited relief from the estate tax. These changes will give taxpayers and the Internal Revenue Service more administrable guidance as to the requirements that must be satisfied by the decedent and the ESOP and the consequences of failing to satisfy these requirements.

Explanation of Provisions

Confirmation of IRS Notice

The amendment confirms the positions taken in IRS Notice 87-13.

Tax-credit ESOPs

The amendment clarifies that the estate tax deduction is available in the case of sales of employer securities to tax-credit ESOPs (sec. 409(a)).

Nonpublicly traded stock

The amendment limits the deduction to sales of employer securities which are issued by a domestic corporation that has no stock outstanding that is readily tradable on an established securities market.

Estate requirements

Sale by executor.—As enacted, section 2057 would have applied only with respect to sales by the executor of an estate. There are significant issues and potential inconsistencies created by this language. For example, it is common for individuals to structure their estates so that not all the assets are included in the probate estate and subject to the control of the executor. Assets may be in a revocable trust or other similar arrangement which is excluded from the probate estate. In the case of assets held in trust, the statute could be interpreted to preclude the sale of such assets in a transaction qualifying for the estate tax deduction because the executor cannot sell the trust assets.

Congress, in enacting the estate tax deduction, did not intend to draw arbitrary distinctions among the types of assets includible in the gross estate of a decedent depending upon whether the assets are within the control of the executor.

The amendment clarifies that the provision applies to sales of employer securities to the extent the securities are includible in the gross estate. Thus, assets held in trust are eligible for the estate tax deduction to the extent the employer securities held by the trust are listed as securities on the estate tax return. On the other hand, if a decedent owned a partnership interest, the value of the partnership interest is reported on the estate tax return and not the value of the underlying assets of the partnership. Consequently, under the provision, if the assets of a partnership consisted of employer securities, such securities may not be sold in a transaction qualifying for the estate tax deduction.

Limitation on deduction.—In order to ensure that the provision results in only a partial elimination of estate tax liability, the amendment limits the amount of the deduction allowable under section 2057 to 50 percent of the taxable estate (determined without regard to sec. 2057). Also, the amount of estate taxes imposed by section 2001 (determined without regard to any credits allowable against the tax) may not be reduced by more than $750,000 by reason of the deduction.

Holding period requirement.—In order to prevent transfers in contemplation of death, the amendment imposes a holding period requirement for the decedent with respect to the employer securities to be sold to an ESOP. Thus, in order for the estate tax deduction to be available, the securities are required to be assets that would be includible in the gross estate of the decedent if the decedent died at any time during the shorter of (1) the 5-year period ending on the date of death, or (2) the period beginning on October 22, 1986, and ending on the date of death. For purposes of determining whether the holding period requirement has been satisfied, securities which would be includible in the gross estate of the spouse of the decedent if the spouse died during the holding period are to be treated as securities includible in the gross estate of the decedent during such period. In the case of the estate of a decedent who died before October 22, 1986, the holding period requirement is satisfied if the decedent held the employer securities on the date of death.

The period for which the decedent is considered to have held the stock is reduced for any period for which the holding period is reduced under section 246(c)(4) (relating to periods in which the risk of loss is diminished).

Assets transferred from other plans.—The amendment provides that the estate tax deduction does not apply to the extent that the employer securities are acquired with transferred assets. Transferred assets are assets of an ESOP which are attributable to assets held by another qualified plan maintained by the employer (other than another ESOP) or assets attributable to a period of time when a plan was not an ESOP. Assets held by the ESOP on February 27, 1987, are not transferred assets, regardless of their source. The denial of the deduction extends to assets that are transferred directly from one plan to another (for example, pursuant to section 4980(c)(3)), assets which are rolled over from another plan, assets which result from a conversion of another plan into an ESOP, and assets which are merged into an ESOP from another plan (other than an ESOP). The Secretary has the authority to except assets from this provision under appropriate circumstances.

In order to prevent the employer from acquiring securities in a section 2057 transaction with the proceeds of a loan and then using transferred assets to make payments on the loan, the amendment imposes an excise tax if a loan payment is made with transferred assets. The tax is imposed on the employer maintaining the ESOP and is equal to 30 percent of the amount paid on the loan (including both principal and interest payments). This provision is not intended to expand the permissible sources from which exempt loans can be repaid pursuant to section 4975.

ESOP allocation requirements and substitution prohibition

In general.—The amendment modifies the allocation requirement and nonsubstitution requirement in present law (as reflected in the IRS Notice) in several respects. The modifications provide objective rules for determining when a prohibited substitution of employer securities occurs and also change the sanctions for failing to allocate the securities acquired in the section 2057 transaction or acquiring securities in substitution for other employer securities. The new provisions are intended to ensure that plan participants receive the employer securities acquired in a section 2057 transaction (or the proceeds of a disposition thereof) and that the transaction results in an increase in employer securities in the plan.

Dispositions within 1 year preceding sale.—The amendment prohibits an ESOP from selling employer securities and using the proceeds to acquire substitute employer securities in a section 2057 transaction. Further, the amendment modifies this nonsubstitution rule contained in present law (as reflected in the IRS Notice) to provide that the deduction is available with respect to proceeds from a sale to an ESOP only to the extent the proceeds are greater than the excess (if any) of (1) the proceeds from the disposition of employer securities during the 1-year period preceding the sale, over (2) the cost of employer securities purchased by the plan during such 1-year period. In addition, for purposes of the rule, all ESOPs of the employer are treated as a single plan.

In determining the proceeds of the plan from dispositions of employer securities, the following dispositions are not taken into account: (1) distributions made on account of the death or disability of the employee, the retirement of the employee after the attainment of age 59½, or a separation from service of the employee which results in a 1-year break in service; (2) certain exchanges of qualified employer securities for other employer securities in a corporate reorganization; and (3) dispositions required to meet diversification requirements (section 401(a)(28)).

This provision can be illustrated by the following example: On July 1, 1988, executor E sells employer securities to an ESOP. The proceeds of the sale are $150,000. During the 1-year period from July 2, 1987, through July 1, 1988, the cost of employer securities acquired by the plan and all other ESOPs maintained by the employer (excluding the purchase from executor E) is $350,000. The proceeds of the ESOP (and all other ESOPs maintained by the employer) from the disposition of employer securities during the same period (excluding any dispositions excepted from the provision) is $400,000. The estate tax deduction is not available with respect to $50,000 of the proceeds received by executor E and is available with respect to $100,000.

Dispositions within 3 years following sale.—To preclude an ESOP from disposing of qualified securities within 3 years of the date of a sale qualifying for the estate tax deduction, an excise tax is imposed on the employer maintaining the ESOP. The tax is equal to 30 percent of the amount realized on the disposition. No penalty tax is imposed on dispositions which are excepted from the provision prohibiting dispositions within the one-year period preceding the sale. The amendment contains ordering rules for determining which securities are considered disposed of in any dispostion.

The 30-percent excise tax does not apply to dispositions of securities with respect to which the estate tax deduction is denied due to a failure to meet the nonsubstitution requirement.

Failure to allocate.—The amendment imposes an excise tax on the employer maintaining the ESOP in the event of a failure to allocate securities acquired in a section 2057 transaction. The tax is equal to 30 percent of the amount realized on the disposition of qualified employer securities before the securities are allocated to the accounts of plan participants if the proceeds from such disposition are not so allocated. This excise tax is coordinated with the tax on distributions within 3 years following the sale, so that this tax does not apply to disposition to which the premature disposition tax applies.

The tax applies in a number of situations to which the tax on premature dispositions does not apply. For example, the tax applies if the shares were disposed of after expiration of the 3-year period in order to repay an exempt loan.

Taken together with the 3-year rule, this provision requires that, within the 3-year holding period, employer securities are to be allocated to plan participants or held for allocation. After expiration of the 3-year holding period, the securities may be sold, but the entire proceeds of the sale (including any amounts owing on an exempt loan) are to be allocated to plan participants.

The 30-percent excise tax does not apply to dispositions of securities with respect to which the estate tax deduction is denied due to a failure to meet the nonsubstitution requirement.

Effective Dates

Confirmation of IRS Notice

Because this provision of the amendment accurately reflects Congressional intent in enacting the estate tax deduction, it is effective as if included in the Tax Reform Act of 1986.

Tax-credit ESOPs

This provision is effective as if included in the Tax Reform Act of 1986.

Nonpublicly traded stock

This provision is effective with respect to sales after February 27, 1987.

Estate requirements

Sale by executor.—This provision is effective as if included in the Tax Reform Act of 1986.

Limitation on deduction.—This provision is effective with respect to sales of employer securities to an ESOP after February 27, 1987. Sales on or before February 27, 1987, are not subject to the limitations in the provision, but are taken into account in determining whether the limitations are met with respect to post-effective date sales.

Holding period requirement.—This requirement is effective with respect to sales to an ESOP after February 27, 1987.

Assets transferred from other plans.—This provision is effective with respect to sales to an ESOP after February 27, 1987, and, in the case of transfers used to make payments on a loan, transfers used after February 27, 1987.

ESOP allocation requirements and substitution prohibition

Dispositions within 1 year preceding sale.—This provision is effective with respect to sales to an ESOP after February 27, 1987.

Dispositions within 3 years following sale.—This provision is effective with respect to dispositions of qualified securities by the ESOP after February 27, 1987. The 30-percent excise tax does not apply to dispositions of securities with respect to which the estate tax deduction is denied due to a failure to meet the nonsubstitution requirement.

Failure to allocate.—This provision is effective with respect to failures to allocate employer securities occurring after February 27, 1987.

ESTIMATED BUDGET EFFECTS OF REVENUE PROVISIONS

Provisions Approved by the Senate Finance Committee, Fiscal Years 1988–90

[In millions of dollars]

Item	1988	1989	1990
I. REVENUE PROVISIONS			
A. Accounting Provisions:			
1. Repeal vacation pay reserve	396	1,983	2,038
2. Repeal installment method for dealers	2,043	2,964	2,143
3. Require capitalization of pension past service liability	70	110	120
4. Repeal cash method of accounting for farms with receipts over $25 million	24	36	38
B. Estimated Tax Provisions	1,580	779	371
C. Corporate Tax Provisions:			
1. Modify computation of earnings and profits for intercorporate dividends and basis adjustments (overrule Woods Investment Company case) (Includes binding contract rule.)	94	328	450
2. Denial of graduated rates for personal service corporations	75	125	140
D. Partnership Provisions: Portfolio income	77	127	170
E. Child and Dependent Care Credit: Deny credit for overnight camp expenses	11	106	112
F. Modify Pension Funding Rules [1]	679	1,502	992
G. Estate and Gift Taxes: 2-year freeze of 1987 rates	21	176	165

ESTIMATED BUDGET EFFECTS OF REVENUE PROVISIONS—Continued

Provisions Approved by the Senate Finance Committee, Fiscal Years 1988–90

[In millions of dollars]

Item	1988	1989	1990
H. Excise Taxes:			
1. Telephone tax: 3-year extension	1,324	2,266	2,472
2. Collect diesel fuel and special motor fuels taxes on sales to retailer	208	230	200
3. Extend termination date for coal excise tax			
I. Employment Taxes:			
1. FICA tax provisions:			
a. Expand employer share of FICA tax to include all cash tips	184	281	302
b. and c. Expand FICA tax to inactive duty reservists, certain agricultural employees, family members, and group-term life insurance includible in wages	200	261	278
2. Railroad retirement taxes	144	182	183
3. FUTA tax: 3-year extension	715	1,009	1,033
J. ESOP Estate Tax Deduction	1,226	1,553	1,862
Subtotal, Revenue Provisions	9,071	14,018	13,069
II. USER FEES			
A. Internal Revenue Service Fees	46	60	60
B. Extensions and Increases in Certain Alcohol, Tobacco, and Firearms Occupational Taxes	167	106	106
C. Customs Service Fee	122	152	591
Subtotal, User Fees	335	318	757
III. OUTLAY REDUCTION			
A. Debt Collection: 3-year extension	300	425	425
B. PBGC Premiums Increase	390	510	540
Subtotal, Outlay Reduction	690	935	965
Grand Total, Deficit Reduction	10,096	15,271	14,791

[1] Includes provisions to modify full-funding limitation and effects of Finance PBGC-related provisions to modify funding rules.

Mr. BENTSEN. I thank my colleagues and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I again want to compliment the Senator from Texas for his very, very fine statement and for the work he has done in this regard. I think the tax package that is presented before us gives us an answer to what some of us have been saying for a long time, that there was a way to get some real revenue without doing something to change people's individual tax rates, without doing something that would in any way stifle the economy or hurt the economy, and yet would give us some real revenue that would grow in the future years.

Like the Senator from Texas and the Senator from Florida, no one likes to talk about taxes. A lot of people in my State keep asking me all the time, "Why in the world do you keep talking about taxes? Do you want to raise taxes?" I say "No, I do not want to raise taxes or talk about them."

As the Senator from Texas said, the reason we have taxes to start with is to pay for what this Government has decided to spend. Our problem has been over the last years, and certainly since 1981, we have been willing to spend hundreds and thousands of millions of dollars, and billions of dollars, more than we have been willing to pay for.

That has given us a national debt that has tripled in the last 7 years,

roughly. It took us 100 years to incur the first trillion dollars of national debt and now we find we have raised the debt limit up until 1989 to $2.8 trillion, which literally is a tripling of that national debt. Of course, with that comes that rising trade deficit, comes the tremendous obligations to maintain the debt service. We are saying that here is a measured step toward trying to say that we are going to balance, somewhat, or the equivalent.

I read earlier that we are getting more than two spending dollar cuts for the dollars in the tax revenue cuts.

I think the Senator from Texas and the Finance Committee have certainly designed that kind of balanced package that is so proper and makes so much sense.

I believe the public understands that there really is no free lunch, that eventually you are going to pay. I think they understand better than our leadership does, really, that the deficit is a tax on them. It is a tax that they are paying with that increased interest rate; it is a tax that they are paying on the jobs we are sending overseas; it is a tax that we will pay with inflation if we do not get it under control. That starts all of those if you incur the tax, where we, in many instances, lack the political will to say we have to favor this.

I think the Senator from Texas knows that if we were ever on the basis that, before we can leave here every year, we had to pay for whatever we decided to spend, we would be very careful about what we decided to spend money on, that we would not start new programs if we had to start borrowing money, so to speak. I think he has hit the package that makes sense, as part of our agreement, and I again compliment him and thank him.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I know the distinguished senior Senator from Texas is busy and he has completed his remarks, but I wonder if I could just take a moment in his presence and compliment him and engage in a dialog.

First let me say I think the distinguished Senator from Texas would agree with me that there are many who thought this economic summit group, which he and I were privileged to be designated by our membership to attend in their behalf, had some kind of magic wand; that we were no longer part of the process called the House of Representatives with all of their prerogatives and the Senate with its prerogatives. I am sure we now understand, and I hope everybody in the Senate understands, and maybe foreign countries understand, that we have no capacity to go off on the side, even with the President's representatives, outside of the Senate and the House and put together a legislative package and walk out and say it is done. We have still to work through the normal legislative process of getting the House of Representatives to pass what it must pass, the Senate to pass what it must pass, and that the final product must be consistent with what the President had in mind. We are in the process of doing that.

Mr. BENTSEN. I say to my distinguished friend, he is absolutely right. And how many times we repeated that in that conference.

Mr. DOMENICI. Absolutely.

Mr. BENTSEN. And telling the administration there is no way we could commit that this was the final instrument; that we all had to go back to our committees, that we had to go back to this body, and that we had to follow the procedures of the Senate and the House.

Mr. DOMENICI. So that for those who are wondering where is the budget summit package going, let me just suggest it has to take a step at a time. Actually, it will not be completed until the President affixes his signature to two major bills—this one, reconciliation, after it has gone to conference and completed its process through both Houses, and the appropriation bill for all of next year called the continuing resolution. This too will hopefully meet the targets set in this summit conference. When he has both of those bills and we have done our work and he signs them, we will have the $30 billion in the first year growing into $45 billion in the second.

I think that we have to make that point, I say to my friend from Texas, because at each step we can only do what the Members with us trying to be leaders but with them having their strong conviction, will let us do. And I join the Senator in urging that we take this first step today and that we pass this leadership amendment as soon as we can, giving everyone their prerogatives and we get on with the next step, which is the full year appropriations bill. The Senator still must go to conference on a tax bill, as I understand it. Is that not right?

Mr. BENTSEN. That is correct. I have been through a number of those and they are not easy.

Mr. DOMENICI. I want to close this dialog with the distinguished senior Senator from Texas by complimenting him for his leadership and the hard work of his committee. Frankly, they had more to do with the deficit reduction, any way you look at it. In pure dollars and cents, they were the biggest contributor to the deficit reduction package. They come closest of any committee to doing their work in a way that was consistent with the summit in every respect, dollars and substance. As the Senator has indicated, the administration says this is consistent with both the spirit and the substance of those day-after-day-after-day meetings at which the representatives of the administration were in attendance and we as Members of Congress were in attendance. I compliment the Senator.

Mr. BENTSEN. We have quite an able membership on this committee and they really put their shoulders to that wheel and turned out the product. I am proud of them.

Mr. DOMENICI. Mr. President, I would like to just make a few observations to the Members without being presumptuous and without wanting to limit it to my side. I hope Members who have amendments will come to the floor and begin to discuss their willingness to offer them. We have a little bit of a procedural situation in front of us because we are proceeding down one tree with a leadership amendment. If there are those who want to move to strike provisions of the underlying bill, we are willing to accommodate in order to get things going. So I would urge that those who have amendments to accommodate the Senate and this deficit reduction package by getting down here and seeing if they cannot work out something where we can start calling up their amendments.

Having said that, I have listened to the marvelous exchange this morning starting with Senator GRAMM, of Texas; Senator PACKWOOD, with a rather lengthy history of the summit conference and his explanation of the structural deficit of the United States of America, and ending here, just before I give these few remarks, with my good friend from Florida, and the distinguished chairman of the Finance Committee.

Now, I have heard many things and I do not know that I disagree with all of them or any of them. I am not sure that there is an absolute direct relationship between our trade deficit and our American governmental deficit. I have heard the trade deficit and the budget deficit are tied together rather inextricably. I think there is a relationship in terms of a problem. Surely, you cannot have the kind of trade deficit we have and the kind of fiscal deficit we have and expect continued good times. You have to reduce the fiscal deficit as you make a long-term effort to reduce the trade deficit. To solve both problems is to put the American economic future in jeopardy because you are putting the real economy and the worded debt financial problems under extreme pressure which will put way too much pressure on the currency and ultimately back on monetary and fiscal policy.

The one thing we can agree on in essence is that we ought to be getting the fiscal deficit down. You cannot solve all economic problems at once. But it is clear that the trade and budget deficits cannot grow at the same time, and produce prosperity.

Having said that, I want to thank Senator PACKWOOD for his analysis, but I want to draw a different conclusion than he did. I want to borrow from his remarks for a couple of minutes and congratulate him. He has now looked at 15, 20, 30 years of American fiscal policy. If I read him right, he concludes that, based on history, it is not the defense budget that is breaking the bank, so to speak.

In relatively historic terms, defense is no higher than it was in John Kennedy's Presidency as a percent of our total prosperity. As a matter of fact, it is lower. And interestingly enough, the distinguished junior Senator from Oregon, who is not an appropriator, took a look at the discretionary appropriated accounts—and he has defined those for us. He came to the same conclusion as we and that we urged on the members of the summit conference. It is not the package of discretionary accounts which has been breaking the bank. As a matter of fact, that group of accounts is substantially lower relative to the size of the whole budget than it has been historically. In the last 8 years, these accounts grew in a couple of years by slightly more than inflation. But for the most part those entire accounts—our national efforts in education, in highways, in water and sewer cleanup programs, in EPA and the like—as a matter of fact, in real terms are going down, not up.

So he arrived at the conclusion, third conclusion, that neither were the cumulative taxes on Americans so low as some might suggest. Just about the same level of taxation as we have had historically for the last 4 decades—19.5 percent of our gross national product, and so he concluded as many have, subject to his definition, it is the entitlement programs that have grown rather dramatically in the past 2½ decades.

Now, Mr. President, he then concluded, very interestingly, that a Gramm-Rudman sequester would not significantly alter the structural deficit problem. And he is right because all it will do is take a big chunk out of defense and a big chunk out of 20 percent of the domestic programs, all of which for the most part are discretionary accounts. So what you are doing under a Gramm-Rudman sequester, aside from its disorderliness, its lack of priorities, and its arcaneness, is the things we are already cutting and which are not really causing this major structural defeat. He concluded that. I did not. It is true. I suggest, if that is the case, if it is true why would we want a sequester. If there is another package that accomplishes as much deficit reduction and does not suffer from the impediments of an across-the-board cut of the type we have been describing this morning that is described as the Gramm-Rudman-Hollings sequester. I do not think there is any reason unless one has the hope that sometime between Christmas Eve and New Year's we will get called back in here and we will pass a better package. And I use those dates figuratively, Christmas and New Year's, but I think everyone understands. Where would we get that kind of a package in the waning days of this calendar year to do that, that would satisfy the President, Democrats and Republicans in the House, and in the Senate? How would that happen?

So I conclude that there is only one other possible reason for being against this package. And I conclude that it might have been the tax component. And, Mr. President, we have heard the distinguished chairman of the Finance Committee indicate that the tax package is acceptable to the President of the United States, and that it is both in spirit and substance consistent with the economic summit agreement. That might not be enough for some. So, let me give a second reason.

One could say they are worried about taxing anyone for anything in these fiscal times because it might harm the economy. Or, they might say we would rather do what the President suggested in his budget some 8 or 9 months ago and outspending more. And I just want to say if that is a justification let me just give you a few numbers. I believe taxes are taxes with an exception that you can tailor taxes to be adverse to the economy. So let us assume we are not talking about such taxes. None of those are in my conversation.

The President had over $9 billion in his budget in taxes. It just depends on how you define taxes. In terms of real, revenue increases in the Internal Revenue Code taxes, he had $6 billion. Real taxes in the name of user fees where people, groups of Americans, paid a tax for a service rendered by the Federal Government, brought it up to over $9 billion. I really cannot imagine—unless one just thinks we are going to invent a new deficit reduction package out of the air in the next month that is better than this, or that this tax package when combined with the other savings is going to truly harm the economy—and I cannot understand why we would not adopt it.

If there are those who want to come down and say they are going to vote against it because of certain provisions in the Tax Code, I would understand that. Or if somebody thinks defense is too high, would like to cut it more, or too low and would like to add, I could understand that. But the sequester is an answer to none of those. It accomplishes no more significant change in the structural deficit than we are going to do. It is better on defense than a sequester. It is better on domestic discretionary than a sequester, no more in taxes if you include users than the President, and is 2 years in duration with binding targets in the second year, which is rather historic. And so I join with Senator BENTSEN from Texas in urging that we adopt it and get it on over to the House and hope that in the next 7 or 8 days in a conference we can come out with something that is consistent with the summit and with our package.

And then I now want to close and indicate to any of those Senators who would like to discuss discretionary appropriated accounts, or the defense budget, for the last 2 or 3 years as contributors to the deficit, whether they are growing substantially or whether we realize those are the ones that we ought to chop, because they are all out of proportion. I would welcome a discussion because I think I can convince anyone that those are not the causes for this deficit, and even at that, we are restraining them substantially over what they would have been either in the budget we approved earlier in the year or the natural tendencies of the Congress in terms of the appropriations process.

Again, from our side, not being presumptuous for the entire institution, I urge Republican Senators who have amendments to get them down here, see if we cannot work out some way to start calling them up, and see if the amendments to the leadership package are preferable at this point so we can get on with seeing whether this leadership package is acceptable in the not-too-distant future.

I yield the floor.

Mr. BYRD. Mr. President, will the distinguished Senator yield? I join the distinguished Senator in urging that Senators call up their amendments. We provided for two such amendments in our motion, and I wonder if we could not encourage the introduction of those amendments at this time. I would like to add my appeal to that of the distinguished Senator. It is 11:30, and we hope to finish this bill. We have the continuing resolution behind this one. And Senators are notified that we will in all likelihood have a session Saturday and the measures have to go to conference. They have to be brought back, sent to the President, and he has to sign them. If we do not finish by Saturday week, then we are into Christmas week. So it is chipping off Monday, then there is only Tuesday, and that will chip off that. There is only Wednesday. And the next day is Christmas eve.

So this is valuable time, Mr. President, I hope Senators will come and

call up their amendments, and I hope the cloakrooms will try to get in touch with Senators and urge them to take advantage of this moment in which nobody is here. I do not see anybody vying for recognition. It is a good time to call up their amendments. There will not be a better time. And there will come a time I suppose when we can yield back time on a bill. How much time remains on the bill?

The PRESIDING OFFICER. Fifteen hours fifty-three minutes.

Mr. BYRD. And Senators in control of that time of course can yield it back, can they not, or as much thereof as they would wish?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. In other words, if 10 hours were yielded back, it would leave how much time?

The PRESIDING OFFICER. Five hours, fifty-three minutes.

Mr. BYRD. I think it is possible to finish this bill tonight, although I have an engagement tonight. I am perfectly willing to stay and work on it.

So I do not see any takers. I will put in a quorum call. The quorum calls are being charged against those who ask for the quorum.

The PRESIDING OFFICER. Provided that the Senator who makes that request controls time.

Mr. DOMENICI. Mr. President, you indicated to the distinguished majority leader how much time is left on the bill. Could you tell us how that is divided between the two sides?

The PRESIDING OFFICER. The Senator from Florida controls 8 hours and 9 minutes, and the Senator from New Mexico 7 hours 42 minutes.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I see on the Democratic Legislative Bulletin 20 amendments. Perhaps Senators do not realize that this overall 20 hours that was available at the beginning, when we first began our action on this bill today, was all; that the time on the amendments, even though there are 2 hours—one an amendment in the second degree and one a debatable motion—comes out of the 20. That time is not in addition to the 20 hours.

So I hope they will understand that the leadership is not inclined to run out the 20 hours, if we can possibly get the work done in less time.

It should also be understood that there is a nondebatable motion that can be voted on to cut the 20 hours down. That is not necessary if both sides agree to yield back their time.

So, that time, the 20 hours—and now we only have something like 15 hours—can rapidly dwindle if time is yielded back.

Now, the leadership is not desirous of making it hard on Senators by yielding back time or trying to stop them or prevent them from calling up their amendments and having some time for debate. But time is marching on, the clock is not still; and with 20 amendments on this side—I assume there are some on the other side of the aisle—it is obvious that Senators ought to be calling up their amendments.

The managers are here, waiting; and after so long a time, if Senators do not call up their amendments, then I may move to go to third reading. That is a debatable motion. That is a motion I recall having been made only once since I have been working the leadership. I will just move to go to third reading. That is a debatable motion, and there will be 1 hour on that, but that will come out of the remaining overall time.

I am not going to be in a great hurry to do that. I am not saying that our patience is running out. But, obviously, if there are that many amendments around, if Senators intend to call them up, they ought to activate themselves and come over and take advantage of the opportunity.

I especially hope that the amendments that were provided for in the waiver motion this morning can be called up relatively soon.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, as I indicated a while ago, there are some amendments listed on both sides of the aisle. We put calls out on our side to see if Senators will get over and call up their amendments.

We cannot get anyone to come over and call up amendments.

I think there is a situation here in which some Senators are waiting on other Senators to go first and vice versa.

As a consequence, we are just wasting good daylight here when we have a bill that has to go to conference, and the Senate ought to work its will on this amendment. Perhaps some of the amendments will not be called up, and I hope that is the case.

Mr. President, I am going to suggest a quorum that is going to be live, but before I do that, the distinguished Republican leader and I have talked, and we both feel very much the responsibility of trying to advance the action on this bill. I think we have agreed that we will yield some of the time back now. At least that will indicate to Senators that we just cannot continue to wait and wait.

May I ask once more how much time remains?

The PRESIDING OFFICER. Fifteen hours and 31 minutes.

Mr. BYRD. Very well.

If the distinguished Republican leader and I each yielded back 2 hours, or we could yield 2½ hours, that would leave 10 hours.

Mr. President, I yield 2½ hours back from this side of the aisle.

The PRESIDING OFFICER. The majority leader yields 2½ hours.

Mr. DOLE. I yield 2½ hours.

The PRESIDING OFFICER. The Republican leader yields 2½ hours.

Time is so yielded.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. Now there are 10 hours and 31 minutes.,

Mr. BYRD. I thank the Chair.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes. I yield the floor.

Mr. DOLE. No; I just wanted to ask a question. I would say I think our colleagues need to understand we are trying to accommodate them, not the leaders. We are trying to accommodate them.

Mr. BYRD. Yes.

Mr. DOLE. Because this bill does need to go to conference.

I understand the distinguished Senator from New Mexico has convinced some of our colleagues on this side to maybe not offer their amendments, at least they have indicated they would not.

We now, as I understand it, have maybe three amendments on this side: An amendment by my colleague, Senator KASSEBAUM; an amendment by the Senator from Alaska, Senator STEVENS; and a perfecting amendment to the Kassebaum amendment, a substitute or perfecting amendment, by Senator GRAMM. Is that correct?

Mr. DOMENICI. Mr. President, let me just say that that is correct with reference to our knowledge of amendments.

There is one other accommodation that I have committed to out of our time and I want to make sure the distinguished leader knows that, and that has to do with Senator DANFORTH from Missouri, who wants to make a motion to strike a provision in the underlying amendment. He can do that. He has an absolute right to do that. But I just wanted you to know that I have told

him we would have enough time for him to do that.

He could probably do that before other amendments are offered, if we set aside the pending amendment. And if he came down here and asked, I assume we would be willing to accommodate him. I cannot make that decision without you and others on the floor, but I am going to call and ask if he would like to do that. It is on the underlying amendment, so we would have to set ours aside temporarily. To get something done, I will call him to see if he would choose to do that.

Otherwise, I think we only have the three you mentioned.

Mr. BYRD. The remaining time then would enable us to finish action on the bill by midnight tonight. Of course, I have to say that any time for rollcall votes are not charged against the remaining time; am I correct?

The PRESIDING OFFICER (Mr. ADAMS). The Senator is correct. The time for rollcalls is not charged against the time.

Mr. BYRD. At least we have the end in sight, if we are willing to stay long enough. And I hope we will not have to do that.

Mr. DOLE. In the event we might be able to complete action, say, at 10 or 11 or at midnight tonight, then it would be the intention of the majority leader to move to the continuing resolution tomorrow?

Mr. BYRD. Yes.

Mr. DOLE. And if we do not complete it tomorrow, then it is safe to assume we would complete it on Saturday?

Mr. BYRD. I have informed Senators on this side that we would, in all likelihood, have a Saturday session, unless we finish Senate action on these two measures beforehand, because we have only next week. And we are working, as the Republican leader has said, in every Senator's interest here.

Mr. DOLE. That is right.

Mr. BYRD. Because after Saturday, we have 6 more days, including the next Saturday. And if these matters have not gone to conference, been agreed upon there, gone back to the two respective Houses, gone to the President, gotten his signature or at least his assurance that he will sign them, then our only alternative is to start chipping away on Monday of the following week, which is Christmas week. And none of us want to do that.

Mr. DOLE. It would seem to me the die is pretty well cast, based on the one vote we have had, that most Members are going to stick with the leadership on this package. It may not be what everybody likes, but it is the best we have. I encourage all of our colleagues, particularly those on this side, to accommodate the majority leader. We might even get lucky and finish this by 8 or 9 o'clock.

Mr. BYRD. We could. We could yield back more time. If Senators are not going to call up their amendments, why we might as well just do it.

Mr. DOLE. I am ready. I thank the majority leader.

AMENDMENT NO. 1255

(Purpose: To permit capitalization of certain ground rents for mortgage revenue bond income targeting rules)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 1255.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title IV of the amendment, insert the following new section:

SEC. . AMENDMENT TO MORTGAGE BOND PURCHASE PRICE REGULATIONS.

The Secretary of the Treasury or his delegate shall amend the regulations relating to mortgage bond purchase price requirements, with respect to any lease with a remaining term of at least 35 years and a specified ground rent for at least the first 10 years of such term, to provide for a capitalized value of such lease equal to the present value of the current ground rent projected over the remaining term of the lease and discounted at 3 percent of such other discount rate as the Secretary establishes. If such amendment is not made before the date of the enactment of this Act, such regulations shall be considered to include such amendment.

Mr. INOUYE. Mr. President, the amendment which I am proposing today would increase the number of new home buyers eligible for low-cost Hula Mae mortgages for Hawaii under the provisions of the Mortgage Revenue Bond Program.

The Hula Mae Program was designed for moderate income families who are purchasing their first home. The recent tax reform imposed a purchase price ceiling on homes financed by the Hula Mae Program and is based upon the average home sales in various geographical areas. However, leasehold properties are treated differently. The Internal Revenue Service regulations require that lease rents be capitalized for the full term of the mortgage and its capitalized value be added to the purchase price when applying the purchase price ceiling.

Hawaii's real estate is different from the rest of the country. Many homes are built on leasehold land with residents holding long-term leases. The rental payment is not fixed over the life of the lease, but, rather is renegotiated, often before the expiration of the mortgage contract. The Service's regulations do not permit capitalization of rental payments when those payments are unknown. As a result, existing regulations preclude many Hawaii residents from participating in the Hula Mae Program.

The Joint Committee on Tax scored this amendment as a de minimus revenue impact.

Mr. President, I have been assured that this proposal is part of the so-called technical amendment bill which I have been assured will be introduced early next year and considered. Am I correct?

Mr. DOLE. The Senator is correct. It is part of the technical corrections bill and will be, as I understand it, reported early next year by the Senate Finance Committee or the House Ways and Means Committee.

Mr. INOUYE. With that assurance, Mr. President, I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right and the amendment is withdrawn.

AMENDMENT NO. 1256

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 1256.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page, line, insert the following:

SEC. . EXEMPTIONS FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS AND CARGO.

(a) PASSENGERS TRANSPORTED BETWEEN POSSESSIONS, ETC.—Paragraph (1) of section 4462(b) (relating to a special rule for Alaska, Hawaii, and possessions) is amended.

(1) by inserting "or passengers" after "cargo" in subparagraph (D), and

(2) by inserting at the end thereof the following new sentence: For purposes of subparagraph (D), the loading and unloading of passengers shall not be included in such subparagraph if there is any loading or unloading of such passengers outside the State or possession of such loading."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

On page, line, insert the following:

SEC. . ADMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) CARGO TRANSPORTED BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(b) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSIONS.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "July 1, 1988".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

Mr. INOUYE. Mr. President, the amendments which I am proposing today would correct two inequities in the Harbor Maintenance Revenue Act of 1986. The first, subjects cargo shipped between Hawaii and United States possessions in the Pacific to a harbor maintenance tax, and the second, subjects certain passenger ships to a harbor maintenance tax within the State.

The act imposes a 0.04 percent tax on port use. The U.S. Customs Service is accorded the responsibility of collecting such tax on cargo. Mr. President, the act exempts cargo loaded in Hawaii, Alaska or a United States possession for shipment to the United States mainland for the use or consumption on the mainland. Further, cargo loaded on the United States mainland for shipment to Hawaii, Alaska or a U.S. possession are also exempt. However, there is no exemption for cargo shipped between Hawaii and U.S. possessions in the Pacific. These shipments are labeled exports and are taxed. I believe Congress intended to include an exemption because cargo shipped from California to American Samoa is exempt, and shipments to and from Puerto Rico, which has U.S. port status, are also exempt.

Certain passenger ships such as island hops and those which sail around the Hawaiian island chain are also assessed a tax. These interisland ships serve as alternative transportations for the residents of Hawaii. Not all of our tourist attractions and resident recreations are accessible by car or bus. We have no train system to assist our residents and visitors. Therefore, Hawaii bears an unfair burden of this tax.

Mr. President, I have been advised that these two proposals will be part of the technical corrections bill and will be considered early next year. Am I correct?

Mr. DOLE. I would say to the distinguished Senator from Hawaii that the Senator is correct.

Mr. INOUYE. With that assurance, Mr. President, I wish to withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment and the amendment is withdrawn.

Mr. INOUYE. Thank you very much.

Mr. DOLE. If the Senator would yield? I would say in reference to the one additional amendment we are trying to clear with the distinguished ranking member on the committee, Senator PACKWOOD, that is on nurse practitioners, and as soon as we can do that we will advise you.

Mr. BYRD. Mr. President, the distinguished Republican leader and I are hoping that Senators will come and call up their amendments.

I believe that the distinguished Senator from Iowa, Mr. HARKIN, has an amendment and he is coming now. I think, if the distinguished Republican leader would join me, we will just say that we are going to finish this bill today and we want to be as generous as we possibly can be with Senators in the yielding of time. But we only have 10 hours remaining and, under the rule, the two leaders can yield as much of that time back as they feel compelled to. So we can say that by staying in late, the bill will be finished today. So I would urge Senators to get their skates on, get over here, and call up their amendments.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, before I offer an amendment, I want to make a parliamentary inquiry. As I understand it, on the offer of an amendment, there is a 1-hour time limit. Is that correct?

The PRESIDING OFFICER. The Senator is correct. There is a 1-hour time limit on an amendment, equally divided.

If there are two amendments, it would be 1 hour. In this case, there is an amendment to an amendment.

Mr. HARKIN. And the time limit is 1 hour. Therefore, as the offerer of the amendment, I would have a half-hour under my control?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. And whoever would rise in opposition would have the other half-hour?

The PRESIDING OFFICER. The Senator from Florida would have one-half hour under his control if he seeks to exercise that and is in opposition to the amendment. He would have to declare that to the distinguished Senator.

Mr. HARKIN. And then on the yeas and nays on an amendment to the committee bill, the adoption of an amendment would require, as I understand, Mr. President, from inquiry, 60 votes. Is that correct?

The PRESIDING OFFICER. Adoption of the amendment, the Chair will state to the Senator from Iowa, would only require a majority vote. However, if a point of order is raised against the amendment or if there are points of order, the Chair would rule on those. If they are made, it could require a 60-vote majority. I hope the Chair has answered the Senator's question.

Mr. HARKIN. This Senator is now advised of the situation.

AMENDMENT NO. 1257

(Purpose: To provide for the fair and equitable application of the maximum limitation on farm program payments that may be received by a person)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] for himself and Mr. HEINZ amendment numbered 1257.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. ___. EQUITABLE APPLICATION OF THE LIMITATION ON PAYMENTS THAT MAY BE RECEIVED BY A PERSON.

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by adding at the end of subparagraph (A), the following new sentence: "Such regulations shall provide that a producer who rents or leases land from an individual or entity must be combined as one person, for payment limitation purposes, with the individual or entity from whom the land is rented or leased unless the producer makes a substantial contribution of owned land or owned equipment and personal management to the farming operation that includes the rented or leased land."; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) In applying the limitation provided for by this section, the Secretary shall—

"(i) provide for similar treatment of all entities;

"(ii) except as provided in clause (iii), determine the amount of payments that may be received by any entity based on the number of members of the entity who are determined to be actively engaged in farming;

"(iii) consider any entity that is conducting a farming operation independently of all of its members to be a separate person, and combine as one separate person all entities that are owned or controlled by the same one or more individual;

"(iv) except as provided in subparagraph (D), attribute all payments received by an entity to the members of the entity that have an interest in the entity, such attribution to be based on the interest of the member in the entity; and

"(v) consider an individual or entity that is a member of an entity to be actively engaged in farming if such individual or entity has made a significant contribution (determined based on the total value of the farming operation) of (I) land, cash, or equipment, and (II) labor or management to the farming operation.

"(C) For the purpose of this section, the term 'entity' means a corporation, trust, estate, limited partnership, general partner-

ship, joint venture, charitable organization, and, except as provided in subparagraph (A), any other entity or association.

"(D) The Secretary may elect not to attribute payments to a member of an entity as provided for in subparagraph (B)(iv) if it is determined that—

"(i) the interest of the member in the entity is less than 10 percent; and

"(ii) attribution of the payments to the member would have little or no impact on the application of the limitation provided for by this section.".

(b) INELIGIBILITY OF FOREIGN PERSONS.—The Food Security Act of 1985 is amended by inserting after section 1001 (7 U.S.C. 1308) the following new section:

"SEC 1001A. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

"(a) GENERAL RULE.—Notwithstanding any other provision of law, for each of the 1988 through 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) PERSON THAT IS INELIGIBLE.—

"(1) DEFINITION.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm.

"(2) EXCEPTION.—Notwithstanding the provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments in an amount determined by the Secretary to be representative of the percentage interest of the entity which is owned by citizens of the United States.

"(c) EFFECT.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments, or benefits as the result of the production of a crop of an agricultural commodity, other than the 1988 crop of winter wheat, planted, or commodity program or conservation reserve contract entered into, before the date of enactment of this section.".

(c) REGULATIONS.—

(1) IN GENERAL.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) The provisions of section 1001(5) of this Act shall be applicable in applying the limitation provided for in this section.".

(2) EFFECT.—The amendment made by this subsection shall be effective with respect to contracts entered into on or after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective only with respect to the 1988 through 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, and honey.

Mr. HARKIN. Mr. President, I am pleased that the budget negotiators have succeeded in putting together this package that cuts the deficit by more than $30 billion. I support that. I hope we can bring the budget deficit down even more. However, I would hope that we also look at some of the sacrifices that are being made by different individuals, different groups, and to make sure that the cuts that are being made are being made fairly and that if we have some other cuts that can be made, that will not harm our rank and file out there, the average American, then I think we ought to make those cuts to bring the deficit down even a little bit more.

Mr. President, the amendment I am offering here closes a glaring loophole in the farm price support program.

Under the existing farm program, agriculture makes direct payments to participating farmers based on the difference between a preestablished target price and the loan rate or the market price, whichever it might be. This difference is referred to as the deficiency payment, the difference between the loan rate and the target price payment.

Under the 1985 law, there is supposed to be a limit of $50,000 to any one farmer, or program participant, I should say, in deficiency payments. In other words, no farmer, under the 1985 farm bill, can get more than $50,000.

However, Mr. President, there is a loophole in that section of the farm bill that is big enough to drive a Mack truck through, maybe even 10 or 20 Mack trucks through, because we have found that they were not just getting $50,000 but getting as much as $1 million or $2 million in deficiency payments.

The amendment I am offering here will save millions of dollars by making this program more efficient, effective, and fair.

CBO estimates my amendment will save $50 million in fiscal year 1988, $435 million in fiscal year 1989, and $420 million in fiscal year 1990.

Mr. President, on July 21 this year, the subcommittee which I chair, the subcommittee on nutrition and investigations, held 1 day of hearings into the abuses of USDA's $50,000 payment limitation. The GAO testified concerning program abuses and farm reorganizations designed to harvest the hundreds of millions of dollars in USDA subsidies without any subsidy whatsoever in production or farm activities.

Mr. President, I want Senators to understand this.

GAO estimated that this abuse, this loophole in the law, would amount to $2.3 billion through 1989, with $900 million lost alone in fiscal year 1989 due to these farm reorganizations.

I want to make it clear, Mr. President, that GAO said from 1985 to 1989, because of this loophole, we are going to spend about $2.3 billion of taxpayers' money.

Well, now, let us see where that money is going.

As I said, we had the hearings this summer.

I might also say, Mr. President, last year I proposed this amendment here on the floor of the Senate, and I might just add that it was a procedural vote where we needed 60 votes but did not quite get them. This year I am proposing the same legislation again.

I might also point out, Mr. President, that this amendment is supported by the USDA, by the GAO, and by the IG's office—the inspector general's office—of USDA. All of them say that this loophole ought to be closed and ought to be closed in the manner I am proposing here today.

Mr. President, I would like to go over some charts so Senators can see basically what we are talking about and see the magnitude of the problem.

We can see from this first chart, Mr. President, the increases, the outlays of money for deficiency payments from new farm reorganizations. This is not farmers increasing production. It is not new farmers who are now farming and who were not farming before. This is simply through the reorganization of farm structures in increasing their payments.

In 1985 it just started small, and you can see the progression up to fiscal year 1989, not going up in a straight line, but going up geometrically.

For example, I think last year it went up by some $600 million and will go up again this next year. So this is the kind of abuse we are looking at. This is the kind of money.

If we look at 1990, it will be completely off the chart. Right now we are up to over $2 billion, almost $2 billion, estimated by the end of 1989, about $2.3 billion through 1989.

As I said, it was $900 million in fiscal year 1989 alone.

Let us look at what we are talking about in terms of these farm reorganizations on the next chart.

Here is a specific example, Mr. President, that we uncovered in our investigations that GAO looked at.

Here we have a farming operation that has a farm by a father with four sons and a daughter, each one of them involved in the farming operation.

In 1985, this farming operation got $50,000 each in payments to each one of these individuals. The father got

$50,000, son B, son C, son D, and so on. Each got $50,000, and daughter F got $50,000. They operated as a joint venture. The total amount of money they received was $300,000. That is all well and good. They were each involved and each got $50,000. No problem.

But between 1985 and 1986 they hired an attorney and what happened is on the next chart.

Now we see these six entities begin to form what is called the Christmas tree. Father A and son B form A and B, Incorporated. Father A and son C form A and C, Incorporated, each one forming a paper entity with each other. So before we had six people and now we have 21 persons qualifying for $50,000 in payments.

So in 1985 these six people got $300,000 and through just a paper manipulation forming these different corporations, the next year they got $1,050,000. They did nothing else except reorganize themselves and going from $300,000 in 1 year, to which I think they were rightfully entitled, to $1.05 million just because they set up this Christmas tree.

Again, Mr. President, what my amendment seeks to do is to redefine "person" so that each one of these individuals could still qualify for the $50,000 if they are actively engaged in agriculture, have an input of labor, capital, and management, but they would be precluded from building this Christmas tree and getting $1.05 million. So this is one example showing how active farmers reorganized themselves to increase their payments.

That is just one side of the story. There is another side of this story, and that is now investors, who are not engaged in agriculture, reorganize themselves when they cash rent their farms to increase the amount of money that they are receiving.

This second case study—and again, I would say that this abuse has to be stopped also—involves a landowner. These examples are basically the same, but the landowner had a subsidiary that contracted with a managment corporation to manage a farm with 6,000 acres. We had the landowner, the subsidiary, and management corporation managing the farm. They were permitted to get $50,000 in deficiency payments. Again, no one is really arguing about that. But what they did then is they changed their operation on paper and here is how it looks now. You have the landowner, the subsidiary, the management corporation, and the management corporation took the 6,660 acres of land and divided it into 28 parcels of 238 acres each.

Each one of these squares represents one of those investors. This is one with 238 acres, there is one with 238 acres.

Now, I should have 28 of these squares, but I did not have room on the chart so this square represents numbers 3 through 26 of 238 acres, so there should be 28 of these little squares where before we just had the landowner, the subsidiary, and management of the farm. We now have 28 different paper corporations, each one of those qualifying for the $50,000 payment limit, so they go from one year and $50,000 to the next year and $1.4 million that they are bilking the Government. They did not farm any more. They did not grow anything else. They just made a paper manipulation to change the structure of their farming operation.

We had the one before, Mr. President, defined as a Christmas tree and you can take a look at it. This is the example of farmers who are actively in farming and involved changing their structure. Someone said it looked like a Christmas tree. Actually, it looks like a Christmas tree ornament and it is quite an ornament. That ornament is worth about a million bucks to these farmers. That is the Christmas tree.

This other one is called a cookie cutter because it is like they took a cookie cutter and cut up 28 parcels and each parcel now gets the $50,000 payment.

So, Mr. President, that is what this amendment seeks to do. I think that these examples—and these are just two of the many examples that GAO and the inspector general's office came up with—I think these examples show that we have something which has run amoke here. We have to close this loophole. I believe that our programs ought to be targeted to those farm operators who operate family-sized farms and not to people who can gin up the papermill and create all these paper entities.

What my amendment does is it closes this loophole. But I might also point out that the amendment is carefully drawn so that people like the widows, widowers, and others who cropshare their land will not be affected. They will still be able to get their $50,000 payment as long as they can show that they are contributing land, labor, or some capital to the operation.

I might point out that in this cookie cutter operation, where they set up 28 different parcels of land, these individuals did not invest a cent. They did not put up anything. In many cases they got a loan based upon their potential payment from the Government, so at the end of the year, without putting up any capital, they got a payment from the Government. And I can tell you right now that some of the individuals involved here, lived outside the United States, and one or more of these individuals were minor children under the age of 10, who obviously were not contributing any land, any labor, or any capital to the operation. So this amendment that I offer will strengthen the controls and close the loopholes. It will save us over $400 million a year. And it will only affect about 15,000 real and I might add pretend farmers. These are not real farmers. These are pretend farmers.

Mr. President, I would just like to point out how many and who would be affected under this amendment. I received from the Department of Agriculture the total number of farmers who participate in the Farm Program and how many receive over this $50,000 payment limit. Nationally, Mr. President, we had 979,698 participants in the Farm Program in fiscal 1986, the last year for which we have figures. The number of producers who got over $50,000 in payments was 15,477, or 1.58 percent of all of the farmers in the country. And this loophole will not be closed for all those because obviously legitimately some of those who are receiving $50,000 ought to contunue to receive $50,000. But not the $1.4 million or the $1.05 million as the Christmas tree showed.

Last, Mr. President, a lot has been said about who receives this money. A lot of newspaper articles have been written. We know, for example, that the Prince of Liechtenstein—wherever Liechtenstein might be—who does not even live in this country, last year I believe received some $2.2 million—$2.2 million to the Prince of Liechtenstein in deficiency payments from the taxpayers of this country.

Well, I believe, if we are going to cut the budget, if we are trying to cut the deficit, we want to do it fairly, let us target these programs for operators of family-sized farms and get the hand of the Prince of Liechtenstein out of the till and make the programs work as they were intended to work.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes 40 seconds.

Mr. HARKIN. I reserve the remainder of my time.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. Who yields time? Time is controlled in this situation by the Senator from Florida, if he is in opposition.

Mr. BYRD. Mr. President, on behalf of Mr. CHILES, I yield to the distinguished Senator from Alabama—how much time does he want?

Mr. HEFLIN. I would say at this time maybe 10 minutes.

Mr. BYRD. Ten minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. HEFLIN. Mr. President, I rise in opposition to the Harkin amendment. This is the first amendment that will come up pertaining to the leadership package. If the Harkin amendment is adopted, the floodgates are open—and I think that the efforts of the White House, the leadership of the Senate,

the leadership of the House of Representatives, the leadership of the Budget Committee, which has worked diligently for many, many months, the leadership of the Finance Committee, and the leadership of the Appropriations Committee, all of which have been involved, stand in jeopardy.

This is a test vote on the summit that was worked so hard at by so many people to arrive at a solution to reduce deficits. And this amendment is placing the work on the budget in jeopardy. That is the first thing I think you ought to consider at this stage.

Second, if we do not come up with a deficit reduction package, what are the signals that go out, what are the signals that go out to the financial markets, what are the signals that go out to the world at this particular time? I think that is something that we all are interested in.

We are interested in coming up with a deficit reduction package. Now the machinery, the mechanism, by which the leadership package was arrived at, is in jeopardy, too, with this amendment. You had the various authorizing committees meet, and the various authorizing committees met with an idea of achieving the reduction in spending, and how it would be achieved. The Agriculture Committee spent many, many hours relative to these matters, and finally on Friday of last week they came up with a package. This package does not include the Harkin amendment.

That process was designed to allow the authorizing committees to work on this. If you send a signal that the floodgates are open, then all of the work of the authorizing committees in producing the leadership package are in jeopardy.

I have spoken generally about where we are in the significance of the fact that this is a first vote. Let me address the issues that are involved here. I think there are abuses. There is no question that there is a need for an answer, and a solution relative to the abuses that we have. There was a GAO study, and the various charts that he has showing some of the instances of abuse which have occurred. But it is similar to when you go to the doctor. You first try to diagnose the illness, and then it is the matter of prescribing a medicine. If a wrong medicine is prescribed, you may have worse results.

The Secretary of the Department of Agriculture has the authority to promulgate the regulations pertaining to persons, and how this should be defined. If there are ills, then the finger of blame needs to be pointed not at Congress, but at the Department of Agriculture.

Yes, we had a hearing that was directed toward the abuse, and toward what the GAO study showed. But we have had no hearing, no hearings whatsoever, no investigation, no deliberation, no careful consideration as to the solution.

If you give the wrong medicine, you can have a patient that can go into chills. And can in effect die. You can have all sorts of things that come about when you choose the wrong solution. It may well be that in the long run some aspects of the Harkin amendment are good, and that it might be good medicine. But, on the other hand, there could be far-reaching consequences affecting family farmers that need to be considered, and that need to be carefully reviewed. We need to have testimony about the effect of certain solutions, and in this instance we have had none, not even the first word pertaining to the solution that has been proposed by the Harkin amendment.

I could say that for all practical purposes there have been no hearings. And here we are on a reconciliation package where there have been in effect no hearings whatsoever.

They would come back and say, yes, we had a GAO study, we pointed out the abuse, but we have had no hearings on solutions.

One of the beautiful things—and I say beautiful because it has worked and it is a thing of beauty pertaining to the 1985 farm bill—was the marketing loan that was adopted for certain crops like rice and cotton. It has worked. The figures we have, for example, since the marketing loan has gone into effect pertaining to cotton will show that there has been at this stage to date a 30-percent decrease in the cost to the Government because of the marketing loan to cotton.

There is not as much in rice, but over time it appears that it will have at least a 26-percent decrease in the cost to the Government as compared to what it cost before the marketing loan went into effect.

What is the effect of the Harkin amendment on the marketing loan? I ask that not only from the viewpoint of the effect that it could possibly have on the cotton program and on the rice program, but there are many Senators who believe that the solution to the farm problem that we have today lies in the marketing loan for wheat, and corn.

As a part of the package it has been recognized that the marketing loan is working, and as a part of the leadership package we have here to offset some situations that would develop we are adopting a marketing loan as it would apply to soybeans.

The problem with the Harkin amendment and its effect upon marketing loans generally is what will be the effect 2 years from now? Will it in effect cause a reversal of the trend in cotton? Will it cause a reversal of the trend where we have been saving money on rice? We do not know. But we do know this: That there are many cotton farmers, many rice farmers, who are considering getting out of the program and therefore they are going to plant fencerow to fencerow, because the marketing loan has worked and the price of cotton has gone up, the price of rice has gone up. And the program that has been designed under the marketing loan may well be destroyed.

Whenever we get back to the farm bill, whether it be in 1990, or whenever, we may look at the marketing loan as being the savior for corn. Senator HARKIN's State of Iowa has a great deal of corn. They are looking into the issue of the marketing loan as being protection for that commodity.

But here, with this amendment, we are getting into something we do not know one thing about on how the effect and what the solution of the Harkin amendment might be. And we are going off into a situation of where we may well be destroying the program without carefully considering it. Agriculture problems are complicated, extremely complicated. And if you do not have hearings and you do not try to foresee the problems that will arise, you are going to get into more trouble. The Harkin amendment ought to be called the uncertainty amendment because we do not know the extent of this trouble and where it might be.

So I say to you at this time that this is not the vehicle by which we ought to be going off into some uncertainty. There are abuses. The Secretary of Agriculture can correct them. We in Congress can correct them after we have hearings on solutions.

So, without going off into some wild blue yonder, without knowing where we are going and what we are going to do, and without any hearings on solutions to these abuses without any projections as to what would happen with current farm programs, and overall farm policy, I ask the Senate to reject the Harkin amendment. Because, I think that while the amendment has some good intentions, we all know the road to the devil is paved with good intentions.

You have to see where you are going. Are you going to dig a road or highway through a mountain or through rock, or is it going to be through sand? You have to know something about it. We have a situation here in which we do not know one thing in the world about the consequences of this; we know nothing about the solution.

So I beg the Members of the Senate, let us, first, not open the floodgates on the leadership package. Let us not start a situation of where we are going into a matter that we do not know what is going to happen on deficits.

Let us respect the work of some who have tried to reduce deficits.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Who yields time?

Mr. HARKIN. Mr. President, before I yield time, I want to respond briefly.

First, I ask unanimous consent that the names of the following Senators be listed as cosponsors of this amendment: Senator BURDICK, Senator LAUTENBERG, Senator HELMS, Senator BOSCHWITZ, and Senator METZENBAUM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I just want to respond that indeed the subcommittee on investigations had a full day of hearings on this issue this year.

As to the fact that there have been no investigations, there are six full GAO reports on this $50,000 payment limit. The Inspector General of the Department of Agriculture wrote 15 reports on this abuse, and it has been consolidated in one report. This has been investigated by all branches, by Congress, by the GAO, and by the Inspector General's office.

I also pointed out—I do want others to speak on this—that basically this amendment will help the leadership package, because it will give us more flexibility to make adjustments because of the increased savings we have in this measure.

I yield 6 minutes to the distinguished Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, the Senator from Alabama has said that marketing loans would be impaired by this amendment. As I understand the amendment, the payments on the marketing loans, the amounts below the loan rate, do not count toward the $50,000 limit.

Am I correct in that?

Mr. HARKIN. The Senator from Minnesota is absolutely correct.

Mr. BOSCHWITZ. I thought so.

Mr. President, I rise in support of the amendment offered by the Senator from Iowa.

I have not been an advocate of payment limits in the past. Frankly, a good portion of the commercial-size farms are now impacted by the $50,000 limit, because one of the economic realities of our time is that farms are indeed getting bigger. More of them will be impacted by the limit that is suggested by the Senator from Iowa, and which I support them in years gone by.

The 1985 farm bill also exacerbated the $50,000 payment limit problem, because by lowering the loan rate and keeping target prices high, deficiency payments, which are the subject of the $50,000 limit, increased. As a result, more farms were affected for that reason as well.

The farm program that Senators BOREN, KARNES, and I have introduced, known as decoupling, which the Senator from Iowa and I do not agree on—in our bill, the "person" definition is like the "person" definition the Senator from Iowa is seeking by his amendment.

Anyone who has watched the farm policy debate in the past few years knows that I do not always agree with my friend from Iowa, for whom I have the highest regard and highest respect because of his knowledge of farm issues and because of the empathy he brings to the plight of the farmer. That plight still exists, and, while easing in the last year, it still is a problem for those who find themselves heavily in debt.

On the subject of "person" definition, I think the equities are quite clear, and the Senator from Iowa and I are on the same side.

I am worried about the integrity of farm programs and their ability to continue. We hear about outrageous abuses such as the Prince of Liechtenstein receiving millions of dollars in payments. While the abuses amount to a very small portion of the overall payments made to farmers—it is the negative perception of the people, what they see printed and see on TV, that worries me. While it amounts to only a small portion of the entire sum that is spent on farm programs, nevertheless, it endangers the viability of the entire farm program because there is such a strong reaction, as there should be, to those kinds of offenses.

So I am pleased to support the Senator's amendment. I am also particularly pleased that he has made some exceptions for the subchapter S corporations. Under the present law, subchapter S corporations are treated quite harshly and are treated as only one person. Under the Senator's amendment, they would be treated more fairly. Where two or three farm families have gone together, at the advice of counsel, at the advice of university advisers, and now find themselves unduly restricted, the amendment would give relief. So I think the Senator from Iowa is doing the right thing and the fair thing in that regard as well.

I am pleased to commend the Senator from Iowa on this amendment. It is long overdue. I hope we can come out of conference with it or something like it, and I hope, too, that it will be expeditiously adopted by the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Warren Brookes, which appeared in the Washington Times on May 28, 1987.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, May 28, 1987]

BUMPER CROP OF BENEFITS

(By Warren Brookes)

Over the last six weeks, Congress has added nearly $1.5 billion in the already bloated $26 billion farm subsidy program, including an additional $1 billion for export subsidies, and $400 million in "disaster" relief for farmers hit by last year's floods.

With huge payments like these, there is no sentiment among farmers for any significant change in the current program, let alone the radical Harkin-Gephardt production-quota proposal.

Not, that is, unless Congress does what no one expects it to do: set some kind of real limits on the amount of subsidies a single farm unit can receive by making it tougher to "reorganize" farms into multiple "persons" or corporations, each entitled to up to $50,000 a year in subsidies.

According to the General Accounting Office, these "reorganizations" alone will cost taxpayers an additional $2.5 billion from 1984 to 1989, with some 31,000 "new persons" added to farm subsidy rolls by 1989. (See chart.)

And thereby hangs a fascinating tale.

During last month's passage of the $9.3 billion supplemental appropriations bill, House Appropriations Committee Chairman Jamie Whitten, Democrat of Mississippi, no farm radical, managed to attach an amendment forcing the U.S. Department of Agriculture to hold yet another referendum on the idea of "mandatory supply control" and develop rules to implement such a program.

The measure passed the House overwhelmingly, despite the objections of House Agriculture Chairman E "Kika" de la Garza, Democrat of Texas, who, like 70 percent of all farmers, opposes Harkin-Gephardt.

When the bill got to the Senate, the Harkin-Gephardt rider was stripped out by Senate Agriculture Appropriations Subcommittee Chairman Quentin Burdick, Democrat of North Dakota.

Whereupon Washington Post agriculture reporter Ward Sinclair published an article contending that the big agribusiness lobby (grain traders, fertilizer companies, food processors) was killing the Harkin-Gephardt initiative.

The problem with this thesis is that the folks who put the Harkin-Gephardt referendum idea into the supplemental appropriation bill were not the "farm advocacy" groups at all, but the big cotton and rice producers in Mr. Whitten's district.

They are worried that Congress just might get serious about clamping down on the huge subsidy excesses to major producers, many of whom are collecting millions of dollars.

Last year the top 15-percent of the grain, cotton and rice farmers collected about 70 percent of the huge $26 billion subsidy kitty, with large farms worth more than $1 million averaging well over $200,000 each.

If these grotesque subsidies—paid by average Americans earning less than $30,000-a-year per family—were to get solidly capped, the recipients would want to do what the sugar growers already have done: limit total agriculture supplies to the market in order to drive up U.S. farm prices by $20-$25 billion, 75 percent of which would go to the top 15 percent of farmers.

This is why the cotton and rice "heavy-hitters" appeared en masse April 22 before their friend and fellow "good old boy,"

House Agriculture subcommittee Chairman Jerry Huckaby, Democrat of Louisiana, to protest USDAs proposal to make it tougher for farmers to pile up subsidy entitlements by phony "reorganizations."

As the violins played, these large-farm operators, many of them leasing thousands of acres of land from small landlords and then setting up dummy corporations to multiply their "entitlements" to your tax money, sang out the sob song of the professional "rent-seeker," namely that their special interest would benefit all of us, even the poor!

One of the more sickening performances was by Jack Hamilton—a cotton, soybean, rice and wheat farmer from Louisiana—who contended that his farm and its subsidy payments were really a philanthropic cause. To prove it, he produced a table showing all of the different poor and elderly folks being "benefited" by his operation.

Included were seven landlords, among whom were three he described as "black widows," one "white widow," and one "black Baptist church" and one "retired farmer" from whom he leased 785 acres of land and to whom he paid a total of about $42,975 in rent, or about $50 an acre.

Of course, the only reason he rented that land was because he could make good money farming it along with his own 1,244 acres. His 2,092 acres will produce estimated revenues of $502,565 this year, of which $133,000 or so will come from the taxpayers direct.

So that $42,975 he paid in rent was not out of the goodness of his heart, but because with the added acreage he could generate an additional $200,000 in income—much of it from you and me.

This, of course, is precisely why, in this "farm depression era," tens of thousands of farmers like Mr. Hamilton are busy leasing every available acre they can find just to earn more money from subsidies.

It's getting more disgusting every day.

The PRESIDING OFFICER. Who seeks time? Who yields time?

The Senator from Iowa and the Senator from Florida control time. Who yields time?

Mr. PRYOR. Mr. President, a parliamentary inquiry.

Who is controlling the time for the opponents?

The PRESIDING OFFICER. The time for the opponents has been controlled by the Senator from Florida and the majority leader acting for the Senator from Florida.

Mr. PRYOR. Mr. President, I wonder if the distinguished manager will yield to the Senator from Arkansas 3 minutes in opposition to the Harkin amendment.

Mr. CHILES. I am happy to yield.

Mr. PRYOR. I thank the distinguished Senator from Florida for yielding.

Mr. President, this is a package that none of us really likes. I think all of us pretty well admit that.

I was involved, as many other Members of this body were, in some phases of this package—the Finance Committee package, the governmental affairs package, and now the agriculture package—upon which this issue is based at this moment.

Mr. President, I think the day will come when there will be a change in the "definition of person" issue that Senator HARKIN has raised on this floor today. I think the day is going to come when we will reexamine this issue. I think the day is going to come when we will change the way the moneys are distributed to the farmers across our country. I think the day will come, probably sooner rather than later, as to how we will make those equitable distributions and how we will define "person" under the deficiency payment philosophy that we have had for a number of years in American agriculture. Mr. President, this is not that day.

I would just like to say, as my friend from Alabama, Senator HEFLIN, has just stated, that if we do adopt the Harkin amendment, we are going to begin the unraveling of a piece of very carefully put together legislation.

I urge my colleagues, in all due respect to my good friend from the State of Iowa, Senator HARKIN, that we oppose the Harkin amendment for the time being, that we pass this agricultural package as a package. It was not easy to put together. There were long hours spent in putting it together. The corn people gave, the cotton people gave, the rice people gave—some gave, some took—but all of us gave some to find the $2.4 billion in savings that we were mandated to save under not only the budget law but the Gramm-Rudman-Hollings law.

Mr. President, for a further and better explanation of the issue that is before the Senate today, I ask unanimous consent to print in the RECORD an April 7, 1987 article from Farm Journal written by Mr. John Marten.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

$50,000 LIMIT PROMOTES PART-TIME FARMING

(By John Marten)

The new Reagan plan the issue. Shrinking government outlays the goal. Limit *all* annual direct payments to $50,000 per individual the action. Only time will tell if it will sell.

Since the Harkin-Gephardt proposal is dubbed the "Save the Family Farm" Act maybe this new Reagan plan should be called the "Make 'em All Part-time Farmers" Act or the "Lawyers and Lease Preparers Welfare" Act. Washington is trying to save money by social legislation that defies the laws of economics. It makes for less efficiency—a higher cost farm sector in the long run.

The family farm folklore of today says "Little is lovely, big is bad"—a notion common to most any ruralist. But the rural "mythologist" of today also argues that the "wrong folks" are getting the government checks. "Not so," say the data in Table 1—current transfer payments are, in fact, relatively larger for those in need—on target if you will.

USDA data show that "high-debt" farmers account for just 21.4% of farms but get 50.8% of all payments! And over 55% of high-debt farmers receive payments versus just 30+% of low-debt folks. I'm not saying this is perfect, but it's a clear refutation of the "wrong folks are getting rich" myth.

The same USDA study showed that:

Family-sized farms in the $40,000-to-$250,000 sales class made up just 33% of farmers and 41% of all sales, but collected 58% of all ASCS payments.

That typically part-time farms with under $40,000 sales totaled 60% of all farms, got less than 6% of ASCS checks, and produced less than 8% of sales.

Finally, the big $250,000+ folks comprise just 7% of all farms, make 51% of all sales, but get less than 37% of program payments.

Many viewpoints can be supported with these facts. But "full-time family farms aren't treated fair" isn't one of them.

A rural revolution? This policy would sure keep the lawyers busy. So far, we've created over 250,000 new "ASCS Farms" since 1985 as farmers battle the current rules in the 1985 farm bill, which cut their income and render them uncompetitive based on socially acceptable price supports.

A Kansas father-son corporation that maximized efficiency at 4,000 wheat acres in 1982 is in big trouble now. As Table 2 suggests, they hit the $50,000 mark on less than 700 acres this year (line 10), and they'll have less than 500 planted acres covered in 1988 if the new "$50,000 in total" plan becomes law.

Corn farmers would really begin to "think small" if the limit becomes law. A near-40% shrinkage would occur from 1987 to '88 (line 11). Less than 350 acres (line 9) would put you into the "big and bad (and broke?)" category.

So the consequences of this revolution are:

Continued heavy legal activity as farmers try to maintain their efficiency levels (volume) to keep costs down.

Sales of land and/or lack of buying interest by larger farmers.

Faster shift away from cash and toward crop-share eases

Major growth in custom farming to keep machinery, labor, etc., busy and efficient.

Hectic but very profitable times for lawyers, real estate brokers and farm managers.

Supply control vs. payment limits—this is the key trade-off. Keep cutting the limits and you eventually have big farmers producing more while smaller ones study the noxious weed laws in their state! (While sharpening sickles.)

But Uncle Sam will save billions, right? Nope. Given the current loan and target price structure, we would just: (1) cut compliance; which, (2) boosts production; which, (3) raises loan and deficiency costs! Clearly this dog just chases his tail.

Fairness and justice are two words not easily defined—and so the payment limit debate has no "right" answer. Should federal payments really be targeted even more to those with high debts and high costs? Why reward those results? Is that fair to a frugal neighbor who has low costs, no debt and pays income taxes? Many would say "no way."

And yet, few of us want government subsidies so uniform and large as to reward or promote cotton, corn and wheat "mega-farms." Perhaps it is time to consider a "graduated" or "volume-related" target price notion (you'd get less per unit as acreage increased.)

It's full-time family farms that will bear the brunt (along with OMB) of the "savings" in the new Reagan plan.

TABLE 1.—FARM PAYMENTS GENERALLY ARE ON TARGET! [1]

Financial condition	Number of farms	Percent of all farms	Percent getting payment	Percent of all payments
High debt; negative cash flow	173,000	11.2	53.3	15.8
High debt; positive cash flow	158,000	10.2	58.2	35.0
Low debt; negative cash flow	519,000	33.5	30.0	8.1
Low debt; positive cash flow	701,000	45.1	31.0	41.1

[1] 1986 USDA survey. Data covering 1.6 million farms and $13 billion in direct program payments and net CCC loans in 1985.

TABLE 2.—HOW THE $50,000 PLAN DOWNSIZES FARMS

	Corn	Wheat	Cotton
1. Target price	$2.97	$4.29	77¢
2. Formula loan	$2.17	$2.71	50¢
3. Actual loan/average price	$1.73	$2.17	45¢
4. Amt. subject to limit (1 – 3)	$1.24	$2.12	32¢
5. ASCS program yield	120 bu.	50 bu.	600 lb.
6. Payment/acre grown (4×5)	$149	$106	$192
7. Max. ARP idling (percent)	20	30	25
8. Max. base coverage, acres	420	674	347
9. Max. plantings in 1988 (8—7)	336	472	260
10. Max. plantings in 1987	555	654	310
11. Proposed 1988 as percent of 1987 (9÷10)	60.5	72.2	83.9

Mr. PRYOR. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, will the Senator yield 3 or 4 minutes to the Senator from Arkansas?

Mr. CHILES. I am happy to yield, to the Senator from Arkansas, 4 minutes.

The PRESIDING OFFICER. The Senator from Florida yields 4 minutes to the Senator from Arkansas.

The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator from Florida and the President.

Mr. President, I rise in opposition, reluctantly, because the Senator from Iowa is always out on the cutting edge in trying to preserve the farm programs that we have and trying to help the American farmer become taxpayers.

As my distinguished colleague has already pointed out, this might be an amendment that I could happily stand on the floor and support 2 years from now, but today it is premature.

The marketing loan programs that we put into effect in the 1985 farm bill have begun to work.

I have addressed about three different farm groups in my State in the past 30 days, and it is the first time in at least 6 years that I have been able not to go with hat in hand, my head between my legs in apology. I was able to face those farmers and say things are indeed looking better. We had the biggest yield of cotton this year in the history of our State. Two bales per acre were not out of the ordinary. And cotton prices have been pretty good. Rice, which was selling a year ago for $1.60 a bushel, is up in the $4 to $4.50 range because of the marketing loan provisions we had in that bill.

But I can tell you the farmers in the State of Arkansas, and I expect I speak for the farmers of Iowa, are not yet taxpayers. Even though they are going to make a little money this year, they still have such staggering losses from the preceding years that they still have to write off, and they will not be able to pay any taxes soon to the U.S. Treasury.

Mr. President, I want to also say that I speak to you not only as a Senator from an agricultural State, I speak to you as a Senator from the South where the devastation of this amendment will be the greatest.

First of all, I hope a point of order will be raised against the amendment; and, second, I hope my colleagues will not support this amendment because it is premature.

If I have to vote for anything dealing with deficiency payments, I will take the provision that is in the House bill now, the so-called Huckaby amendment. I am not too crazy about it, but it is infinitely preferable to this amendment which in my opinion will unravel, as my colleague said, the 1985 bill and all the progress we have made. Farmers for the first time in years have some legitimate reasons for believing that their future does indeed look brighter, and this will be a throwback.

So I urge, indeed I plead, with my colleagues to vote "no" on this amendment.

I yield back such time as I have remaining, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. CHILES. I am happy to yield.

The PRESIDING OFFICER. Does the Senator from Florida yield time?

Mr. CHILES. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Florida yields 2 minutes to the Senator from Texas.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I share the comments of my distinguished friend from Arkansas who spoke very eloquently on this piece of legislation. It is a highly technical issue that we are dealing with here, and of such a complexity that I really do not think we can resolve it on the floor of the Senate.

I strongly urge we let the agriculture committees solve the problem and work it out.

The other side of the argument, too, is that we have before us a package that has been put together at the summit meeting of the conferees, and if we start accepting amendments now and particularly those that are highly technical and complex I do not know where we stop. It is a slippery slope to get on, and I hope we could oppose these amendments and set that kind of a pattern very early on, and we can defeat this amendment by an overwhelming margin.

Frankly, I think, that will help send a message so that we will not have nearly as many amendments tonight and hopefully will finish the overall package.

I urge defeat of the amendment.

The PRESIDING OFFICER (Mr. REID). Who yields time?

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. Six minutes and fifty-eight seconds.

Mr. FOWLER addressed the Chair.

Mr. CHILES. Does the Senator from Georgia wish time in opposition to the amendment?

Mr. FOWLER. One minute.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 1 minute.

Mr. FOWLER. Mr. President, I rise in opposition to the Harkin amendment and would like to associate myself with the remarks of my friends from Arkansas, Alabama, and Texas.

This is a complex matter. This issue has been described as one giant loophole, when the truth of the matter is that the so-called person definition was put into the law to resolve the regional differences between the way we farm in the different regions of our country. The person definition was put into the law to try to ensure fair treatment and just treatment to all farmers regardless of where and how they were forced to farm by soil and climate and regional limitations.

Crops like cotton and rice, despite our fine soil and climate in the South, cannot be farmed profitably on 40-acre plots. Capital is pooled; money from brothers and sisters and in-laws and sometimes neighbors all have to be brought together in order to put together a farm where these crops can be farmed profitably.

I understand and I applaud the sincerity benind the approach of my friend from Iowa, but we should not be allowed to try to rewrite a definition that has served its purpose and served its purpose well at this time.

I think it is important that our colleagues understand what this amendment would do before they cast their votes. This is an issue that goes to the heart of regional differences in agricultural production. It is about the way we farm in the South, the way we produce agricultural commodities for our great Nation and the world.

From the first colonies, southern farming has differed from northern farming. Our land and climate lend themselves to producing certain commodities, such as cotton and rice, that are simply not profitably grown on small, 40-acre plots. Farmers who choose to grow these crops must, for the most part and of necessity, orga-

nize a larger farming operation than farmers who grow other crops.

Today's larger farms in the South are often the product of pooled capital and labor. Savings and credit and the work of brothers, of fathers and sons, of in-laws, and even of unrelated neighbors, have been pooled in order to produce southern commodities and a decent livelihood for southern farmers.

These farms have existed for years. And for years, the Federal Government has recognized these regional differences, has taken into account the different structure of farms in the South, and has reasonably and equitably chosen not to penalize southern farmers for the crops they grow or the way they choose to grow them. For years, our Nation's farm programs have treated our Nation's farmers fairly without regard to region.

And now, of all times in the midst of a crisis in rural America and across the South, are we going to abandon this past and embark on a course into uncharted territory?

The amendment which was just introduced. I, as but one member of the committee of jurisdiction, have not had an opportunity to review in detail. No hearings have been held on this topic since I joined the Senate, and this specific legislation has not been openly examined outside of the context of budget reconciliation by the members of the Agriculture Committee assembled.

Its effects on the South, while undoubtedly negative, are unknown and unquantified. But what is the cost of this legislation? How many southern farms will be broken up? How many will go under? We don't know for sure, and we won't know the tradeoffs without a hearing on the specifics of this language and without discussion among the members of the Agriculture Committee.

The current person definition has been characterized by some as one big loophole—that is to misunderstand the purpose of the person definition. That purpose is to treat all farmers, farmers at each point of this Nation's compass, with equal and just consideration.

The person definition can be revised in order to solve the problems pointed out by some of my colleagues while continuing to allow farmers North and South, East and West, the flexibility that other breadwinners enjoy to organize and operate in a manner that suits their positions and interests.

We are not prepared today, I think, here on the floor, to revise this definition in any detail or with any forethought or fair consideration for regional differences. This is work appropriately left to the committee of jurisdiction.

That is why in the name of fairness to the farmers of all regions, and in the name of prudence in this body's deliberations, I oppose this amendment at this time and call on my colleagues likewise to oppose it.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. BOSCHWITZ. Mr. President, I rise to say that I inadvertently forgot to mention that the administration is very much in favor of this amendment. They consider it to be good farm policy. I do as well.

As I have indicated, in the event there would be any savings that would result from an adoption of this amendment, certainly other aspects of the package could be adjusted. I would even say that loan rates could be adjusted, but I better not do that on the time of the Senator from Iowa.

But in any event, the administration does indeed favor this amendment, and it is good policy.

I yield the floor.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Wisconsin, Senator KASTEN, also appear as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, there is nothing technical and there is nothing very intricate about this amendment. Once more, we go around it. Here are two examples. Here is one with six people, all in a farming operation. They each got $50,000. In total they got $300,000. No one is complaining about that.

But in 1 year, what they did is set up a Christmas tree. In 1 year they went from $300,000 to $1,050,000 in Government payments, without anything else, other than setting up a paper Christmas tree.

The other example I showed is how a landowner that had a subsidiary that has a management corporation managing 6,060 acres of land. They got a $50,000 payment limitation. But in 1 year they went out and set up 28 separate paper corporations, each one getting $50,000. In 1 year they went from $50,000 to $1.4 million. It does not take very much to figure this one out.

I might just add, on the legality, on saying "Let the Department of Agriculture take care of it," they are trying to take care of it. In fact, on this case alone the Department of Agriculture is in court trying to recover the money. They cannot do it because the law is the law.

What I am talking about here is not illegal. It is perfectly legal to do this. And unless we pass this amendment, it will be perfectly legal next year.

If we are trying to save money, let us cut where the fat is the thickest. I just have to say that in these kinds of cases like this, this is where we could make some savings, quite frankly.

You talk about not reopening the 1985 farm bill. This package devastates the 1985 farm bill. It cuts the target prices 1 percent. It adjusts the loan rates. It cuts the paid diversion. It increases the unpaid ARP. Talk about undoing the 1985 Farm Program, that is what the package does.

I am just saying, fine. I support the package. But I am saying let us make a few additional savings that we can make right here without hurting any family sized operations.

I also want to say, in closing, that I appreciate the comments made by my distinguished colleague from Minnesota. As he indicated, sometimes we do not always agree on agriculture matters. But I have the highest respect for his analytical abilities and for how he is always getting to the crux of the problem in agriculture. In fact, we found ourselves agreeing many times in the analysis of the problem, but we happened to have reached different conclusions sometimes. But on this one, we are together and we both believe very strongly that this is one abuse that ought to be closed.

I reserve the balance of my time, if I have any remaining.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I wonder if the Senator from Florida would yield me 1 minute?

Mr. CHILES. How much time does each side have?

The PRESIDING OFFICER. The Senator from Florida has 7 minutes and 30 seconds, and the Senator from Iowa has 2 minutes and 40 seconds.

Mr. CHILES. The Senator from New Mexico wishes some time and the Senator from Arkansas, and then I will yield back any time we have remaining and let the Senator from Iowa use his remaining time, and we will call for a point of order against the amendment.

Mr. HEFLIN. I would like to have a couple of minutes.

Mr. CHILES. I yield 2 minutes to the Senator from Alabama and 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to simply say that the Senator from Iowa is right about the Christmas tree. That is a problem with this program and it ought to be eliminated and it will be eliminated in conference with the House.

All I am saying is that nobody here is arguing that there have not been abuses in this program. There is a provision in the House bill that gets at those abuses, and that gives our conferees and the House conferees wide latitude in eliminating them.

But you cannot suggest to the farmers in Arkansas that they give up the right to a deficiency payment because they are going to get cut 1 percent on their target prices. You take a vote down there and I promise you they will stick with these deficiency payments every time. They are absolutely critical to their survival.

But I want the Record to show that the Senator from Iowa has made a cogent point. It can be, it should be, and it will be dealt with. But you do not have to do it with a broad ax, which he is trying to do.

Mr. President, I yield the floor.

Mr. CHILES. Mr. President, I yield 1 minute to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished manager for yielding me 1 minute.

Let me urge Senators in this brief minute to refrain from taking the easy way on the proposal. The easy way is to try to ingratiate yourself with those who are suspicious of farm programs, who think there are changes that ought to be made in the 1985 farm bill. There may be improvements that can be made in the farm bill. This may be one of them. But we are here trying to meet targets established in a bipartisan agreement, not to try to engage in one-upmanship political posturing.

And I am not suggesting that is the motivation, but it is a temptation to try to do just a little bit better for this group of interests or that group of interests all the way along as we consider this bill.

Please refrain from voting in support of this amendment and follow the managers of this bill and let us try to implement the agreement that was reached at the summit.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alabama is recognized for 2 minutes.

Mr. HEFLIN. Mr. President, they mentioned abuses involving the Prince of Liechtenstein, or something like that. That can be cured simply by a regulation by the Secretary of Agriculture. This matter is subject to regulation or any corrections in regards to that. And I certainly think that there ought to be. I urge the Secretary of Agriculture to adopt the Liechtenstein regulation, or whatever it might be called, to try to do it.

But let us not try to ruin one little element of the farm bill, as Senator BUMPERS said, with a broad ax, where we do not know what we are cutting down.

You get up here, and you take a bulldozer—and that is what this Harkin amendment is, a bulldozer—and it may be trying to cut down a Christmas tree. And it may be that the Christmas tree needs to be cut down by a Boy Scout hatchet. But let us not use the bulldozer and destroy or bring about an uncertainty to the entire farm program.

The solution, in my judgment, to the farm program lies in the marketing loan. This can have a terrible effect on the marketing loan. Two years from now, if it has a terrible effect on the marketing loan, then we will not be finding a solution for wheat, we will not be finding it for corn and other feed grains.

So I say let us stick with the leadership package. Let us stick with the procedure at this time. As Senator BENTSEN says, vote this amendment down with a big vote. It means we may not have to be here at 3'clock tomorrow morning.

So I say let us go with what the leadership has done in its package relative to this matter and let us not use a bulldozer when a Boy Scout hatchet can perhaps do the job.

Thank you.

The PRESIDING OFFICER. The Senator's time had expired.

Who yields time?

Mr. CHILES. I yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. Two minutes is yielded to the Senator from New Mexico.

Mr. DOMENICI. I thank my friend from Florida.

Mr. President, the distinguished chairman of the Budget Committee is going to make a point of order shortly that this amendment is nongermane under sections of the Budget Act.

Frankly, I do not believe we ought to pass on the substance of this measure today. I think the germaneness issue is a very relevant and important one if we will just consider what we are trying to do here today. We are not engaged in an effort to reform the agriculture program or the tax laws of the country. We are engaged in trying to put together a $30 billion deficit package.

The Agriculture Committee of the U.S. Senate had a role in this package. Interestingly enough, they could have done this as part of their savings package. But, I remind the Senate, they did not do that. The committee of jurisdiction, in response to a leadership request to save money in the Farm Program, saved money in the Farm Program, and they did not vote in this measure.

Whether it is good or not so good, the Senator from New Mexico is not going to pass judgment on that. I am going to support the point of order and oppose the motion to waive because I see nothing but a litany of measures to be offered between now and midnight that are amendments to the leadership package that were not considered and not voted out by the committees. If the germaneness rule is not used to inhibit, we will never complete our work and we will have all kinds of votes, few of which will contribute to the deficit reduction package.

So I urge that everyone understand that it is an important vote, not just a procedural one.

I thank the Senator from Florida for yielding.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes and forty seconds.

Mr. LAUTENBERG. Mr. President, I am pleased to join as a cosponsor of this important amendment.

Mr. President, as Congress struggles to find ways to cut spending, there is one place I would urge all my colleagues to focus in on: abuses in farm programs.

While spending on housing, mass transit and environmental protection has been cut or all-but-frozen, the costs of agricultural programs have been skyrocketing. In the late 1970's, costs were under $4 billion annually. By 1986, that figure had grown to almost $26 billion.

When there is that kind of growth in spending, there is usually a lot of waste. That's certainly true with farm programs. By exploiting a variety of technical loopholes, large farming operations are avoiding even the modest payment limits set by Congress to hold down costs.

Exploiting these loopholes is easy. Under law, no single person can get more than $50,000 in certain Farm Program payments meant primarily for small farmers. But the law defines person to include corporations, partnerships and various other entities.

So producers who want more money from the Government simply find someone else and form a corporation. With a few minor changes, the new person is entitled to an extra $50,000. Then, if that is not enough, the producer can just turn around and do it again to qualify for another $50,000.

A second way producers avoid the payment limit is to divide up their farms into several parcels. Then they rent each parcel to an investor. It does not matter whether the investor can tell the difference between a pitchfork and a dessert fork. With a few minor technical changes, he or she qualifies the farm for an extra $50,000.

There are other ways to get around the legal limits. They are documented in a recent study by the U.S. General Accounting Office. As the GAO reported, the loopholes in the law are large, and producers increasingly are exploiting them.

The horror stories are endless. In one case, a group of producers reorganized their operations to create 15 separate paper entities, each of which qualified for an extra $50,000. Thus, instead of receiving the $300,000 maxi-

mum payment as Congress had intended, they got $1,050,000, a healthy $750,000 increase.

In another case, a company divided up its land, found 28 nonfarming investors, and increased its Government payments from $50,000 to $1.4 million.

With returns like that, it is no wonder that many farming businesses are spending less time farming their crops and more time farming the Government.

Many of the so-called farmers who qualify for their own $50,000 in farm program payments have no direct personal involvement in actual farming. Some are even farming American crops from overseas. Prince Hans Adam of Liechtenstein, for example, is part owner of a Texas farm twice the size of his homeland. His farming operation qualified for $2.2 million in Federal subsidies last year.

These types of scams cost the taxpayers substantial sums of money. Reorganizations are expected to cost $2.3 billion between 1984 and 1989. This money does not aid the small, struggling family farmer. It goes largely to line the pockets of wealthy investors and large, profitable agribusinesses.

Government waste like this is always outrageous. But at a time when our economic future depends on reducing the budget deficit, it is obscene.

This amendment will close the gaping loopholes in current law. I am hopeful it can win with bipartisan support. After all, the costs to the Government are significant. Yet the windfall is reaped by relatively few producers in relatively few states.

I urge my colleagues to support this amendment. These abuses simply must be stopped, and soon.

Mr. HARKIN. Mr. President, we asked the Department of Agriculture in our hearings. In fact, I believe it was the Senator from Arkansas, Senator PRYOR, if my recollection is correct, who asked the USDA, GAO, and the IG's office if, in fact, they could correct this through regulation. Their response was, no, they could not; it would take a change in the law.

So, again, we have this court case pending now. They cannot collect because the law is the law is the law. And you cannot really change the law with regulations. It is going to take the Congress to change the law.

I might respond to my esteemed colleague from New Mexico that we are not trying to reform the agriculture program or anything else here. What we are, I think, with this amendment attempting to do one thing: to close a glaring loophole that I do not think anybody ever intended to be in the farm bill of 1985.

When we voted for the $50,000 payment limitation I believe that is what we really voted for. No one ever anticipated the Christmas trees that would be generated to get above that $50,000 payment limit.

I might also respond, just for the record, that the committee, the Agriculture Committee, did not take any formal action. With respect to the leadership package that we have here, we did not have one vote in the Agriculture Committee on this. It is not a formal report of the Agriculture Committee. There were no votes taken. The Agriculture Committee reported nothing. We simply sent suggestions from informal meetings that we had to the leadership on where they could accomplish these cuts.

So, quite to the contrary to the remarks made by my distinguished colleague from new Mexico, this is not a formal recommendation from the Agriculture Committee. No votes were ever held in the Agriculture Committee on this measure.

Again, what we are trying to do here is reduce the deficit and hopefully trying to reduce the deficit without hurting the average American citizen. That is what this does. It provides $50 million of savings this year; $435 million in savings in 1989, and $420 million in fiscal year 1990. I daresay that if we do not pass this amendment today, it is going to go on this year and next year and the year after and we will expend well over about a billion extra dollars in payments to people like the Prince of Liechtenstein, who do not really need it.

Mr. President, I ask unanimous consent that the following appear in the RECORD:

A listing of the 1986 deficiency payments to participating producers, and three articles dealing with this topic, one called "King-size Farm Subsidies for European Prince," another titled "Payments Fit for a Prince," and the last titled "Axing a Mississippi Christmas Tree and Other Princely Farm Subsidies."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL 1986 DEFICIENCY PAYMENTS TO PARTICIPATING PRODUCERS

State	Total		Greater than or equal to $50,000		
	Producers	Payments	Producers	Percent	Total payments
Alabama	7,712	$52,908,464.06	337	4.37	$16,929,031.86
Alaska	12	188,542.38	0	.00	.00
Arizona	2,175	86,116,315.23	925	42.53	54,683,564.61
Arkansas	21,869	291,215,840.49	1,656	7.57	85,130,452.59
California	10,497	228,615,411.69	1,996	19.01	103,293,619.82
Colorado	13,892	112,437,048.22	179	1.29	9,190,829.82
Connecticut	20	81,821.61	0	.00	.00
Delaware	423	4,147,959.96	4	.95	200,000.00
Florida	1,095	5,798,443.61	21	1.92	1,077,529.71
Georgia	10,062	64,523,820.26	219	2.18	11,278,239.50
Idaho	9,683	94,900,532.54	146	1.51	7,857,885.22
Illinois	99,963	464,819,021.08	283	.28	14,673,291.35
Indiana	42,626	206,196,470.53	150	.35	7,871,801.16
Iowa	105,597	606,035,949.84	330	.31	17,989,715.37
Kansas	90,326	418,629,600.52	331	.37	17,708,909.17
Kentucky	11,196	31,703,330.93	16	.14	800,000.00
Louisiana	15,333	158,238,656.42	992	6.47	50,868,524.32
Maine	90	293,958.72	0	.00	.00
Maryland	2,020	11,853,620.49	14	.69	702,777.23
Massachusetts	11	21,948.27	0	.00	.00
Michigan	19,167	104,840,443.23	143	.75	7,742,391.90
Minnesota	52,776	366,768,107.99	317	.60	16,536,657.11
Mississippi	11,923	171,807,228.66	1,654	13.87	84,118,428.08
Missouri	46,137	161,288,088.83	205	.44	10,437,764.31
Montana	17,828	178,487,851.53	311	1.74	17,118,484.12
Nebraska	68,228	411,007,005.63	447	.66	22,659,179.39
Nevada	124	1,009,317.78	3	2.42	179,835.55
New Jersey	446	2,623,461.17	0	.00	.00
New Mexico	3,676	33,092,634.46	81	2.20	4,839,421.31
New York	4,648	25,352,777.17	19	.41	952,094.74
North Carolina	13,122	41,175,371.22	80	.61	4,098,661.81
North Dakota	49,820	362,104,347.43	208	.42	10,658,876.49
Ohio	31,851	129,424,579.97	66	.21	3,349,196.29
Oklahoma	37,303	204,488,891.28	152	.41	7,656,836.37
Oregon	6,187	51,866,950.31	73	1.18	3,802,966.40
Pennsylvania	5,022	14,898,978.63	3	.06	150,000.00
Rhode Island	4	2,180.35	0	.00	.00
South Carolina	4,561	31,312,905.62	159	3.49	8,257,897.42

FISCAL 1986 DEFICIENCY PAYMENTS TO PARTICIPATING PRODUCERS—Continued

State	Total		Greater than or equal to $50,000		
	Producers	Payments	Producers	Percent	Total payments
South Dakota	33,454	174,615,563.49	142	.42	7,376,246.73
Tennessee	13,379	53,438,580.81	184	1.38	9,412,537.46
Texas	77,612	687,804,811.42	3,306	4.26	168,378,177.22
Utah	1,663	8,361,121.41	3	.18	153,855.13
Vermont	53	115,377.78	0	.00	.00
Virginia	4,524	13,569,770.79	13	.29	654,135.36
Washington	10,520	116,910,266.68	203	1.93	10,384,828.09
West Virginia	343	1,102,917.83	1	.29	50,000.00
Wisconsin	19,573	98,985,319.60	102	.52	5,396,409.60
Wyoming	1,152	6,954,949.42	3	.26	150,001.25
National total	979,698	6,291,136,557.34	15,477	1.58	804,771,052.66

Source: USDA.

FISCAL 1986 DEFICIENCY PAYMENTS TO PARTICIPATING PRODUCERS

State	Total		Greater than or equal to $50,000		
	Producers	Payments	Producers	Percent	Total payments
Alaska	12	$188,542.38	0	0.00	$0.00
Connecticut	20	81,821.61	0	.00	.00
Maine	90	293,958.72	0	.00	.00
Massachusetts	11	21,948.27	0	.00	.00
New Jersey	446	2,623,461.17	0	.00	.00
Rhode Island	4	2,180.35	0	.00	.00
Vermont	53	115,377.78	0	.00	.00
West Virginia	343	1,102,917.83	1	.29	50,000.00
Nevada	124	1,009,317.78	3	2.42	179,835.55
Pennsylvania	5,022	14,898,978.63	3	.06	150,000.00
Utah	1,663	8,361,121.41	3	.18	153,855.13
Wyoming	1,152	6,954,949.42	3	.26	150,001.25
Delaware	423	3,147,959.96	4	.95	200,000.00
Virginia	4,524	13,569,770.79	13	.29	654,135.36
Maryland	2,020	11,853,620.49	14	.69	702,777.23
Kentucky	11,196	31,703,330.93	16	.14	800,000.00
New York	4,648	25,352,777.17	19	.41	952,094.74
Florida	1,095	5,798,443.61	21	1.92	1,077,529.71
Ohio	31,851	129,424,579.97	66	.21	3,349,196.29
Oregon	6,187	51,866,950.31	73	1.18	3,802,966.40
North Carolina	13,122	41,175,371.22	80	.61	4,098,661.81
New Mexico	3,676	33,092,634.46	81	2.20	4,839,421.31
Wisconsin	19,573	98,985,319.60	102	.52	5,396,409.60
South Dakota	33,454	174,615,563.49	142	.42	7,376,246.73
Michigan	19,167	104,840,443.23	143	.75	7,742,391.90
Idaho	9,683	94,900,532.54	146	1.51	7,857,885.22
Indiana	42,626	206,196,470.53	150	.35	7,871,801.16
Oklahoma	37,303	204,488,891.28	152	.41	7,656,836.37
South Carolina	4,561	31,312,905.62	159	3.49	8,257,897.42
Colorado	13,892	112,437,048.22	179	1.29	9,190,828.62
Tennessee	13,379	53,438,580.81	184	1.38	9,412,537.46
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North Dakota	49,820	362,104,347.43	208	.42	10,658,876.49
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Illinois	99,963	464,819,021.08	283	.28	14,673,291.35
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Iowa	105,597	606,035,949.84	330	.31	17,989,715.37
Kansas	90,326	418,629,600.52	331	.37	17,708,909.17
Alabama	7,712	52,908,464.06	337	4.37	16,929,031.86
Nebraska	68,228	411,007,005.63	447	.66	22,659,179.39
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Louisiana	15,333	158,238,656.42	992	6.47	50,868,524.32
Mississippi	11,923	171,807,228.66	1,654	13.87	84,118,428.08
Arkansas	21,869	291,215,840.49	1,656	7.57	85,130,452.59
California	10,497	288,615,411.69	1,996	19.01	103,293,619.82
Texas	77,612	687,804,811.42	3,306	4.26	168,378,177.22
National total	979,698	6,291,136,557.34	15,477	1.58%	804,771,052.66

Source: USDA.

[From the Washington Post, Dec. 10, 1986]

KING-SIZE FARM SUBSIDY FOR EUROPEAN PRINCE

(By Andrew Mangan)

The crown prince of Liechtenstein is a partner in a Texas farm that is larger than his own country—and collects king-size subsidies from the U.S. government.

Subsidies of $2.2 million, the largest support payment to any farm in Texas this year, went to Farms of Texas Co., a $70 million partnership owned by Crown Prince Hans Adam of Liechtenstein and International Paper Co., headquartered in New York, according to the Agriculture Department.

Hans Adam, 41, heir-apparent to the throne, owns half of the partnership, which controls 50,000 acres in Brazoria County near its headquarters, 17,000 acres east of Dallas in Hopkins County, and 9,500 acres near Texarkana. Records detailing the holdings and government subsidies were made available by federal agriculture officials in Brazoria County.

The principality is far smaller than the prince's Texas holdings. Nestled in a valley between Switzerland and Austria, Liechtenstein covers slightly less than 40,000 acres.

Various properties accumulated by the royal family over the past 700 years are administered by the Prince of Liechtenstein Foundation, which has been acquiring American farmland.

International Paper is one of the world's largest natural-resources companies, holding more than 6.3 million acres of timberland.

USDA officials said the money paid to Farms of Texas easily surpassed payments to any other farm in the state in 1986.

The government spent a record $25.6 billion in fiscal 1986 on various agriculture programs. Provisions in last year's farm law aimed at helping the family farm are resulting in large payments to major institutions.

Dan Mathews, who manages 90,000 acres of farm and ranch land for the prince's Farms of Texas, said he took part in the federal subsidy program not because he wanted to, but because he had to.

"In 1985 we didn't participate because we could operate outside the government program," Mathews said in a telephone interview. "But in 1986 we were forced in. By forced, I mean the government started selling rice at half price. Either you join in the program or go broke."

Under the farm act, prices were slashed to make U.S. products more attractive to foreign buyers. Farmers are protected from the cuts through direct subsidies to make up lost income.

"We're not trying to milk the government, but we just can't farm against them at half price," Mathews said.

Sen. Phil Gramm (R-Tex.) said the subsidy system should be restructured to close loopholes.

Rep. E (Kika) de la Garza (D-Tex.), chairman of the House Agriculture Committee, defended the payments to Farms of Texas Co., saying such subsidies "are not welfare payments. They are for supply management."

The problem should be partly solved when newly passed legislation capping total subsidies to farmers at $250,000 goes into effect next year, de la Garza said.

[From The Washington Post, Dec. 15, 1986]

PAYMENTS FIT FOR A PRINCE

The ultimate family farmer has emerged. He is Crown Prince Hans Adam of Liechtenstein, partner with giant International Paper Co. in a little something called Farms of Texas Co. For growing rice and other crops on about 75,000 acres (twice the size of Liechtenstein), the prince and paper company this year will collect an estimated $2.2 million in federal farm support payments, the most of any farm in Texas.

The stories of large support payments to the rich have become familiar. Especially amid budget cuts for other sectors of society, they have stirred great indignation, and indeed something needs to be done about them. But don't be fooled. Cap the payments to the gentleman and corporate farmers, and you will increase the fairness of these programs but not greatly reduce their cost. The costs are high not because of rip-offs, but because Congress in the bill it passed in 1985 made the programs too generous.

The target prices on which subsidies are based will come down over the life of the bill, but too slowly. Because the targets are so high, many more farmers than in the past have been drawn into the programs. But the acreage controls are such that production per farmer is also high. The government thus has, as the budget people put it, a lot of exposure. The biggest operations and most generously subsidized are in cotton and rice. But cotton and rice account together for only about $3 billion of the roughly $25 billion that the programs will cost this year. Half the total cost will come in corn, where yearly payments per farmer tend to be less than $50,000.

Congress will get back into the farm issue next year; so at least it threatens. A favorite panacea is to cap payments per farmer. On paper they already are capped at $50,000 a year. If that were enforced across all the programs, cotton and rice included, budget officers say the government would save only several hundred million dollars a year. Other proposals are to target payments only on the needy. The budget experts warn that this population would be hard to define (would you use net income? return on investment? assets versus debt?) and that the government could end up subsidizing the least efficient producers. In any case farmers don't want what they regard as "welfare." a third possibility is to—forgive the word—"decouple" income supports and production, so that farmers wouldn't have to grow crops already in surplus to earn their payments. How long would the country's nonfarmers stand for that?

Still other legislators are proposing production controls. Instead of having the government buy surpluses, they would forbid farmers to produce them. Production would be tailored by the Agriculture Department to match demand. Support costs would go down, but prices would go up. To some extent the United States would yield the export market, and the program would require an enormous federal presence, much larger than its advocates acknowledge: Uncle Sam would be the scarecrow in every field.

The right alternative is to reduce the target prices, not so precipitously as to jeopardize the shaky farm credit system, but clearly faster than in current law. The high supports compound the problem of oversupply that they are meant to solve. yes, weed out the rich; put a cap on supporters to any one producer. But carefully lower the whole lake at the same time.

AXING A MISSISSIPPI CHRISTMAS TREE AND OTHER PRINCELY FARM SUBSIDIES

(By Ward Sinclair)

Up on Capitol Hill, they're chopping down the Mississippi Christmas tree, and they may even take some of the fun out of American-style farming for the crown prince of Liechtenstein before they're done.

Which is to say that Congress, after having failed in several previous attempts, is trying one more time to plug the legal loopholes that have allowed many farmers and unreasonable facsimiles to collect millions of dollars worth of unintended federal farm subsidies.

Investigations by Congress, the General Accounting Office and the Agriculture Department since 1985 have disclosed that hundreds of farmers and investors have farmed the loopholes to a fare-thee-well, in some cases collecting more than $1 million each when the ostensible limit is $50,000.

Among the more eye-catching findings:

The Mississippi Christmas tree, a lawyer's invention that showed land owners and farmers who to subdivide and reorganize farms into multiple legal entities to qualify for more than one maximum payment of $50,000. In one case, 26 California investors each received $50,000 from the same farm; in another, 56 tenants of a big California rice farm split $1.5 million in subsidies with the family that owned the property.

A 75,000-acre farming operation in Texas, owned jointly by Crown Prince Hans Adam of Liechtenstein and the International Paper Co., qualified for about $2.2 million in federal subsidy payments last year. The farm is twice the size of the prince's homeland.

Now the House Agriculture Committee, embarrassed by the publicity and chastened by urban legislator's complaints about excesses in the farm programs, has approved legislation designed to stem the flow of income subsidies.

As part of a budget reconciliation package, farm-state lawmakers worked out a compromise with Rep. Charles E. Schumer (D-N.Y.) that could prevent millions of dollars in unwarranted payments over the next several years.

"The days of million-dollar farm payments to individuals are over," Schumer said. "It will soon take more than a clever lawyer and a friend who owns land to collect farm payments. We may not have eliminated government rip-offs completely, but we made a big dent."

Added Rep. Leon E. Panetta (D-Calif.), an Agriculture Committee member who worked on the compromise: "Reducing federal budget deficits too often means reducing benefits for people in genuine need. But this is a case where wealthy investors and large farm operations are ripping off the system for millions of dollars a year. There should be no hesitation about . . . ending this welfare system for the rich."

Sen. Tom Harkin (D-Iowa) said yesterday that he intends to offer similar subsidy curbs when the Senate Agriculture Committee takes its reconciliation package to the floor. Harkin said his proposal will aim to assure that only legitimate farmers qualify for federal assistance.

The House package was worked out between Schumer, whose challenges last year got the Agriculture Committee moving, and Reps. Panetta, Dan Glickman (D-Kan.) and Jerry Huckaby (D-La.), key subcommittee chairmen.

Their agreement would allow subsidies only for active farmers who make significant contributions of labor, management, land, equipment or capital to the operation. Foreign land owners who are not active participants in their farming operations here would be barred from receiving subsidy payments.

The Christmas tree scheme would be banned by limiting individuals to maximum payments from no more than three legal farming entities—that is, $150,000.

Another section of law allows farmers to receive as much as $200,000 in additional federal payments not covered by the $50,000 direct-subsidy limit.

Mr. DOLE. Mr. President, the American people are demanding—and correctly so—that the Congress knuckle down and reduce the deficit. This reconciliation package, while not achieving the size of reductions I had hoped we would accomplish, represents the last chance we have for deficit reduction this year.

Therefore, the leadership has pledged to oppose all amendments seeking to add extraneous issues to the leadership package. There are several amendments that have been brought to my attention which have substantial merit, and the Harkin amendment certainly fits in that category.

I know that the distinguished chairman and ranking member of the Committee on Agriculture share my belief that the intent of the amendment of the Senator from Iowa is worth pursuing. Furthermore, I know the committee will bring this proposal before the committee in the near future.

Unfortunately, to date, the amendment has had only 1 day of hearings before the Committee on Agriculture, and at that hearing only one witness, from the General Accounting Office, was able to testify. If we are able to give close and careful consideration to this proposal, we might find some improvements which could be made. However, with the current parliamentary situation, no perfecting amendment can be offered at this time.

Mr. President, for these reasons I will vote not to waive the point of

order at this time. I do so, however, with the knowledge that the proposal of the Senator from Iowa will be given full and fair hearings at the Committee on Agriculture, and that the issue will be before the Senate once again in the very near future.

The PRESIDING OFFICER. The Senator from Florida has 41 seconds.

Mr. CHILES. Mr. President, I have listened to the arguments. The Senator from Iowa certainly makes some very fine arguments for the amendment. The Senator from Florida is compelled to raise a point of order against the amendment as we will raise against all of the nongermane amendments to the leadership package and to say that there may be many, many well-meaning amendments that are out there that could be made to this package. What we are about now, of course, is trying to put together this leadership package.

We did ask for the advice and consent, certainly of the major committees, the committees that were asked to make savings, and the Agriculture Committee was one of those committees that had to make savings. We took their advice and relied on their advice and worked with them and made sure that those savings would be sufficient to meet the leadership agreement needs, the summit agreement needs, and that is what we have.

So, for those reasons, I hope that the amendment will not be adopted on this measure. Certainly none of us want to follow, I certainly do not, the Christmas tree provisions or the others. But, if it is meritorious, then it should rise again on its merits on a vehicle that is proper for it.

So, Mr. President, I would yield back the remainder of my time and, pursuant to section 310(e) of the Budget Act I would raise the point of order against the amendment on the basis that it is not germane to the provisions of S. 1920, that it does address new matter not included in S. 1920, and that it is not germane and subject to a point of order under No. 310(e) of the Budget Act.

Mr. HARKIN. Mr. President, I move to waive the Budget Act for consideration and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The motion is debatable.

Who yields time?

Mr. CHILES. I yield back all my time.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, it is not my intent to take any additional time. I understood at least one other Senator wanted to speak on this and I wanted to at least give that Senator the opportunity to do so.

I did want to, however, make one other point that I did not make, with the time that I had before.

A lot has been said about the so-called Huckaby amendment that is in the House provision of the bill and, in that context, a lot was said about not reopening the 1985 farm bill and not messing with the 1985 farm bill.

I pointed out the package in front of us does mess with the 1985 farm bill in terms of changing target prices and loan rates and whole base bids and raising the unpaid ARP, lowering the loan rates, adjusting the loan rates and many other things. So a lot of changes were made in the 1985 farm bill in this package.

I might also point out that with the so-called Huckaby amendment in the House, that is also, not consistent with the 1985 farm bill. And lest there be any confusion about this, the Huckaby amendment in the House raises the $50,000 limit effectively to $100,000; raises it from $50,000 to $100,000 per operator, and also raises the total amount that any one farmer or operator could receive from $250,000 to $500,000.

So, while the Huckaby amendment, I would be frank to admit, does close partially the loophole that allows the Christmas trees here and everything else, the Huckaby amendment basically cuts a tier off of this Christmas tree but leaves the rest of it there.

So, while it does save a little bit, it still raises the maximum payment from $50,000 to $100,000; I do not know if that is what the Senators want to do.

Mr. President, if we are ready to vote, and I think we are, I would now yield back the remainder of my time.

Mr. CHILES. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Florida yielded back the remainder of his time.

The Senator from Iowa—the Senator from Arizona?

Mr. DECONCINI. I do not know who is controlling the time. I would like a minute and a half.

The PRESIDING OFFICER. Both Senators yielded back the remainder of their time.

Mr. DECONCINI. That means I am cut off from saying anything in this case?

The PRESIDING OFFICER. The Senator may ask for unanimous consent.

Mr. DECONCINI. I ask unanimous consent for 1 minute that I may speak in opposition to the amendment by the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I apologize to my colleagues for having to infringe on the time here. I appreciate the time constraints but I am very concerned about having to revisit this subject matter again and again. The Senator from Iowa, if I understand his amendment, would reduce the payment limitation. In a State like Arizona that is going to cause a great market problem because our producers, particularly cotton producers, will produce in a very large amount, from fencepost to fencepost, if they are not included in this particular subsidized program. We are trying to lower subsidies. This is not going to end up lowering it. It is going to end up costing more.

Likewise, I understand this is already going to be in conference. We have very fine conferees here who have worked long and hard on this particular subject matter. We ought to leave it to them.

I was listening in my office to the Senator from Alabama and I think he says it better than I have been able to explain it, but this proposal is detrimental to any efforts to reduce the costs of the farm subsidy program.

In the Senator's State of Iowa these limitations may be considered very substantial. But coming from a State where we must do agriculture on a large basis for it to be economical, these are family farms, too, and they happen to be very large.

So, Mr. President, I hope that the amendment by the Senator from Iowa, with all due respect to his expertise in this area and he is a good friend of mine, will be defeated. Again, I thank the body for indulging me that 1 minute.

The PRESIDING OFFICER. All time has expired.

Mr. HARKIN. Mr. President, I ask unanimous consent that a letter from the National Taxpayers Union be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL TAXPAYERS UNION,
Washington, DC, December 8, 1987.

Re: Harkin amendment to the FY 1988 Reconciliation bill to more effectively limit farm support payments to $50,000.

DEAR SENATOR: The National Taxpayers Union supports an amendment that Sen. Tom Harkin will offer to the FY 1988 reconciliation bill. The proposed language would tighten definitions in 1985 farm legislation to close loopholes that allow individuals and corporations to circumvent the $50,000 payment limit. Unless this amendment is approved, many wealthy farm operators will continue to harvest hundreds of thousands, even millions of dollars in federal subsidies. The Harkin language will assure that caps

on farm price support payments set by Congress will be more closely applied.

The National Taxpayers Union has watched the startling increase in farm subsidies over the past seven years. In our view, these excessive subsidies have provided inappropriate incentives which promoted production far beyond demand, exacerbating the very situation the government is trying to correct.

In order to restrain farm subsidies, Congress has tried to place a $50,000 cap on total price support payments that can be made to a farmer or a farm operation. However, farmers and other owners have found legal means under current law to circumvent the prescribed limits. Farms have been divided into smaller units, corporate ownerships have been creatively rearranged, and the definition of a person has taken on new meanings.

Sen. Tom Harkin has proposed language that would close these loopholes. If the Harkin language were adopted, the Congressional Budget Office estimates the government would save $50 million in FY 1988, $435 million in FY 1989 and $420 million in FY 1990.

It is time to reduce farm subsidies; they are too costly and they stimulate too much production. The National Taxpayers Union urges you to support the small cutback Senator Harkin is proposing. By your yes vote you will save the U.S. Treasury almost $1.0 billion over the next three years.

Sincerely,

SHEILA MACDONALD,
Director, Government Relations.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa to waive the Budget Act. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "yea."

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 49, as follows:

[Rollcall Vote No. 402 Leg.]

YEAS—47

Biden	Grassley	Mitchell
Bingaman	Harkin	Nickles
Bond	Heinz	Pressler
Boschwitz	Helms	Proxmire
Bradley	Humphrey	Quayle
Cohen	Karnes	Roth
Conrad	Kasten	Rudman
D'Amato	Kennedy	Sanford
Danforth	Kerry	Sarbanes
Daschle	Lautenberg	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Thurmond
Durenberger	Lugar	Trible
Evans	McConnell	Weicker
Exon	Metzenbaum	Wirth
Glenn	Mikulski	

NAYS—49

Adams	Garn	Nunn
Armstrong	Graham	Packwood
Baucus	Gramm	Pell
Bentsen	Hatch	Pryor
Boren	Hatfield	Reid
Breaux	Hecht	Riegle
Bumpers	Heflin	Rockefeller
Byrd	Hollings	Sasser
Chafee	Inouye	Shelby
Chiles	Johnston	Simpson
Cochran	Kassebaum	Stennis
Cranston	Matsunaga	Stevens
DeConcini	McCain	Symms
Dole	McClure	Wallop
Domenici	Melcher	Warner
Ford	Moynihan	
Fowler	Murkowski	

NOT VOTING—4

Burdick	Simon
Gore	Wilson

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote? If not, on this vote, there are 47 yeas and 49 nays. Three-fifths of the Senators present, duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The amendment adds new subject matter not contained in the bill or the pending amendment. It is not germane as required by section 305(b) of the Budget Act, and therefore, as previously announced, the amendment falls.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will come to order.

Who yields time?

Mr. CHILES. Mr. President, I think the Senator from New Jersey would like recognition for an amendment. I think the Senator from Maine wanted a couple of minutes on the previous amendment.

Mr. EXON. Mr. President, I have no objection to that.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Florida yield time?

Mr. CHILES. I yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Florida yields time to the Senator from Vermont.

Mr. LEAHY. Mr. President, I will be brief. I do not speak on this last amendment. I understand that a number of Senators are twixt and between a rock and a hard place on it because some want to support the amendment but also want to support the leadership in requesting all amendments in this package which is not a bad position to be in.

The leadership, I know, has worked very, very hard to put together a package. There is an agricultural section which the leadership worked out with us to put in. I found myself with that same kind of concern. I voted for the Harkin amendment although I want very much to support the leadership getting through a package that does not stray from what we have here.

I would note, Mr. President, that at some point this "person" definition is going to have to be changed. This is probably not the package because of the procedural problems to do it in but sooner or later it is going to be done. I hope that is in the committee of conference because the House has a different definition than we do in the Senate.

I must say, Mr. President, that I expect the Senator from Iowa to be on the floor with changes in this again. I am going to want to see changes in it as one who will have to bring a farm bill to the floor. I do not want to have to carry the heavy burden of an out-of-date "person" definition.

I do not want to carry the burden of having to defend a farm program that has with it an irrational system that just begs editorial writers and editorial cartoonists in opposition to the whole farm program because of it. So this may not have been the package to make the change. It is why I did not speak on it earlier but the change will come and will have to come.

Mr. President, one other thing. I think this is the appropriate thing to do. On behalf of the Committee on Agriculture, Nutrition, and Forestry, I am submitting the attached program allocation pursuant to section 302(b) of the Congressional Budget and Impoundment Control Act.

I ask unanimous consent that the committee's section 302(b) program allocation and program account assignments be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Committee on Agriculture, Nutrition and Forestry

[Program allocation for fiscal year 1988]

Rural Development, Electric and Telephone Programs—Direct spending:	
Budget authority	1,560
Outlays	1,672
Conservation, Land Management and Forestry Programs—Direct spending:	
Budget authority	618
Outlays	606
Farmer's Home and Farm Credit Programs—Direct spending:	
Budget authority	933
Outlays	3,710
Farm and Commodity Programs—Direct spending:	
Budget authority	23,114
Outlays	22,871
Ocean Freight Differential—Direct spending:	
Budget authority	60
Outlays	60
Nutrition Programs—Entitlements funded in appropriations accounts:	
Budget authority	4,454
Outlays	4,425

Committee Total—Direct spending:

Budget authority	26,285
Outlays	28,919

Entitlements funded in appropriations accounts:

Budget authority	4,454
Outlays	4,425

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

[Program account assignments]

Program: Rural Development, Electric and Telephone Programs—Account Numbers:

12	3100	0	1	271	FC1	2064
12	4230	0	3	271	BO1	2064
12	4230	0	3	271	FC1	2064
12	4231	0	3	452	BA1	2064

Program: Conservation, Land Management and Forestry Programs—Account Numbers:

12	8210	0	7	301	BC1	2064
12	5219	0	2	302	BA1	2064
12	8028	0	7	302	BC1	2064
12	8210	0	7	302	BC1	2064
12	9922	0	2	302	BA3	4264
12	9921	0	2	852	BA1	2064

Program: Farmer's Home and Farm Credit Programs—Account Numbers:

12	4140	0	3	351	BA1	2064
78	4131	0	3	351	BD1	2064
12	4155	0	3	452	BD1	2064

Program: Farm and Commodity Programs—Account Numbers:

12	4336	0	3	351	BA1	2064
12	4336	0	3	351	FC1	2064
12	5210	0	2	351	BA1	2064
12	8412	0	8	351	BB1	2064
12	1500	0	1	352	BA1	2064
12	5070	0	2	352	BA1	2064
12	8137	0	7	352	BC1	2064
12	8203	0	7	352	BC1	2064
12	8214	0	7	352	BC1	2064
12	8218	0	7	352	BC1	2064
12	8227	0	7	352	BC1	2064
12	8232	0	7	352	BC1	2064
12	9971	0	7	352	BC1	2064
12	9972	0	7	352	BC1	2064

Program: Ocean Freight Differential—Account Numbers:

69	1751	0	1403	BA1	2064

Program: Nutrition Programs—Account Numbers:

12	3502	0	1	605	AA1	RD	RD
12	3502	0	1	605	HA1	RD	RD
12	3539	0	1	605	AA1	RD	RD
12	3539	0	1	605	AA2	RD	RD
12	3539	0	1	605	AA3	RD	RD

Mr. LEAHY. I thank the Senator from Florida for yielding.

Mr. BYRD. Mr. President, will the Senator yield for 1 minute?

Mr. CHILES. I certainly yield to the majority leader.

A MEETING WITH SECRETARY SHULTZ

Mr. BYRD. Mr. President, Secretary of State Shultz is in room S-407. For any Senator wishing to go up and listen to the Secretary, he will be commenting on the summit and the joint statement. He has to leave at 4:30 to go to the House side, and then he is preparing to go to Europe.

So if any Senators wish to go up there, he is there waiting now in room S-407.

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

The Senate continued with the consideration of the bill (S. 1920).

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I just wanted to say in regard to controlling time in opposition to the amendment I would like to yield to the Senator from Arkansas, Senator PRYOR, time in opposition to the amendment.

Mr. EXON. Who will control the time?

Mr. CHILES. The Senator from Nebraska.

Mr. EXON. As I understand it, there is 1 hour equally divided.

Mr. CHILES. That is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Will the Senator from Nebraska yield 30 seconds on my time?

Mr. EXON. Yes.

Mr. DOMENICI. Might I ask the Senator from Florida if I am correct, after the so-called "chicken-farm amendment"—is that the nickname of this amendment?

Mr. EXON. The chicken-farm amendment.

Mr. DOMENICI. Do I understand that the distinguished Senator from Kansas, Senator KASSEBAUM, is prepared to go immediately after this amendment regardless of the disposition of her substitute package?

Mr. CHILES. I understand that is correct.

Mr. EXON. I have discussed this with the Senator from Kansas. She told me she intended to do so.

Mr. DOMENICI. I thank the Senator.

I wonder if we might ask the Senate if it would grant unanimous consent to the ordering of the amendments in the following manner: immediately following the Exon amendment, Senator KASSEBAUM with her freeze amendment would be the next pending business.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object, I would like to request that the Senator change slightly to say after final disposition of the Bradley amendment, then the Kassebaum amendment would be the next amendment in order.

Mr. DOMENICI. I thought I said that. I apologize if I did not. I said disposition of it regardless of its disposition.

Mr. BUMPERS. Or how it is disposed of.

Mr. DOMENICI. Or how it is disposed of. I modify my request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I want to be sure that Budget Act points of order are preserved in requesting sequencing of amendments. I add that to the request.

The PRESIDING OFFICER. Is there objection heard to the request of the Senator from New Mexico?

Mr. DOMENICI. As modified by the majority leader.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

AMENDMENT NO. 1258

(Purpose: To repeal the suspense account for farm corporations required to use accrual method of accounting and to increase the gross receipts test from $25,000,000 to $50,000,000)

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself Mr. BRADLEY, Mr. SANFORD, Mr. CHAFEE, Mr. GLENN, Mr. DIXON, and Mr. DURENBERGER, proposes an amendment numbered 1258.

On page 344 strike section 4504(b) of the amendment.

On page 342, line 1 in section 447(d)(2)(A)(ii) of the Internal Revenue Code of 1986, as added by section 4504(a) of the bill, strike "$25,000,000" and insert "$50,000,000".

Mr. EXON. Mr. President, I rise today in support of an amendment by myself and others to the tax portion of the reconciliation bill which would do two things: it would help to further reduce the Federal deficit while at the same time ending an abuse and gross unfairness in our tax laws.

Yes, it takes a tough man to make tender chickens. But all it takes is a few tough Senators who are not chickens to bring these winged tax giveaways home to roost. It is the Christmas gift-giving season, but that should not be extended to bird conglomerates, and I am not talking about a partridge in a pear tree.

Under present law, some multimillion-dollar food processing companies are treated as though they are family farms and receive millions of dollars in tax benefits by being allowed to use cash accounting, rather than accrual accounting, for income tax purposes. Meanwhile, other competing food processing companies do not enjoy this windfall and are hit much harder by the tax laws. It is simply and directly unfair and discriminatory tax policy.

I believe the present situation is unfair for two reasons. First, the tax laws are maintaining an unlevel playing field among large food processing

companies which are business competitors. Second, the exception which permits family-owned farming corporations to use cash accounting for tax purposes is obviously intended for family farms that do not have the armies of accountants and lawyers available to large corporations. To then allow some large corporations to benefit from this rule is contradictory. One of the benefiting companies had sales last year of over $1.5 billion. Where I come from in Nebraska, a company with sales over $1.5 billion is not a family farm.

The problem with the present law is not a new issue and has been the topic of debate in Congress recently. Earlier this year, I introduced legislation which would have addressed the matter by disqualifying large food processing companies from using cash accounting. Also, my former colleague from Nebraska, the late Senator Zorinsky, had raised this issue and also introduced corrective legislation.

The Senate Finance Committee has one of the most difficult jobs of any committee in the Senate and deserves to be commended. But it did make a major error in drafting the present tax package now before the Senate. The good news is that the Finance Committee package does require these large corporations engaged in farming to switch from cash to accrual accounting. But the bad news is that it also included language which suspends indefinitely, in effect forgiving, a few large corporations from their obligation to pay hundreds of millions of dollars in taxes on previously earned but untaxed income. In other words, while the committee package solves one unfairness, it creates another unfairness that allows the untaxed income to escape tax, thus losing the benefit of legitimate increased Federal revenue and greater deficit reduction.

Mr. President, the treatment of suspending indefinitely the payment of these deferred taxes is contrary to the way other taxpayers have been treated when required by tax law changes to switch from cash to accrual accounting. Last year's tax reform bill required many business taxpayers to switch accounting systems and pay their deferred taxes over a 4-year period. There is no reason why Congress should this year treat a handful of multimillion-dollar corporations more generously by not requiring payment of deferred taxes.

Accordingly, our amendment strikes the provision which allows these giant companies to avoid paying taxes on their previously earned but untaxed income. That change will eliminate the inequity, as we have offered in this amendment. The amendment would leave the committee's portion which does require these companies to switch from cash to accrual accounting. Finally, the amendment would change the threshold for the size of the companies affected from $25 million in gross receipts to $50 million in gross receipts. My original bill on this subject would have set a $100 million gross receipts cut-off, so the $50 million figure is somewhat of a compromise.

Thus, the result of the amendment would have the bill language require these corporations engaged in farming with annual gross receipts over $50 million to switch from cash to accrual accounting. Under an existing provision of law, they would then have to pay back their deferred taxes over a 10-year period, which I suggest is very generous. Under the circumstances, I believe this would be more than generous and would certainly be more fair to other taxpayers than suspending indefinitely payment of their deferred taxes as the committee provision would do.

I have been informed by the staff of the Joint Committee on Taxation that our amendment would result in increased Federal revenues of approximately $300 million over a 3-year period. Considering the size of our deficit problems, I think we need to do all that we can that is fair to help reduce the deficit. I believe this amendment is a fair way toward that goal.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have received from the Joint Committee on Taxation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, one final point must be made. The forces which prevailed upon the Senate Finance Committee to let these large corporations avoid payment of their deferred taxes also prevailed on the House Ways and Means Committee. The House included a similar provision which lets these corporations avoid paying their deferred taxes in the House reconciliation bill. The amendment before us is needed at a minimum just to keep this issue alive for the Senate-House conference committee.

If this amendment is not adopted, the conferees will face a situation where both Houses have passed similar provisions giving big tax benefits to these few large corporations. I hope the Senate will agree that we should not let our conferees be confronted with such an unfortunate situation. Instead, they need the freedom to report back a revenue bill that is fair.

EXHIBIT 1

Hon. J. JAMES EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: This is in response to a request from Don Norden of your staff for a revenue estimate of a cash accounting provision.

This provision would disallow the use of cash accounting by farmers with gross receipts in excess of $50 million. The estimated revenue effects are as follows:

[Millions of dollars]

Fiscal year:	
1988	63
1989	121
1990	130
1991	138
1992	147

This estimate assumes that the provision is effective for taxable years beginning after December 31, 1987. It is assumed that corporations affected by the provision would be required to make an accounting adjustment under Section 481 by spreading over ten years the cumulative effect of changing from the cash to the accrual method of accounting. In addition, attribution of gross receipts is determined by using the propportionate method described in the proposed Senate amendment on reconciliation.

I hope this information will be helpful to you. If we can be of any further assistance, please let me know.

Sincerely.

DAVID H. BROCKWAY.

Mr. EXON. Mr. President, I yield the floor, and I reserve the remainder of the time on this side.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in support of the amendment of the Senator from Nebraska.

The premise of this amendment is that people should pay their taxes. If you owe tax, you should pay tax.

In the Finance Committee bill, which is overall an excellent bill, there is, unfortunately, one provision that effectively forgives hundreds of millions of dollars in back taxes for a few big agribusinesses. No one disputes that fact. The bill will effectively forgive hundreds of millions of dollars in back taxes for a few big agribusinesses. I know that. They know that. The Finance Committee knows that. The bill forgives hundreds of millions of dollars in back taxes.

What this amendment would do is to say, "No, you have to pay those back taxes."

Under present law, most business taxpayers have to use the accrual method of accounting.

This method matches up income and expenses, prevents abuses and underpayment of tax.

There is an exception to the accrual accounting requirement, and that is for family farmers. They can use the cash method of accounting. It is simpler and it saves money by allowing family farmers to defer taxes. But it ought to be limited to real family farms, the guys with grit under their fingernails out there in the fields. But because of the clout of a handful of huge family-held corporations, some of the very biggest agribusinesses in this country, they continue to use the cash method of accounting despite the

Senate's efforts to make them switch to the accrual method.

Who are these big corporations? Well, in the poultry industry alone, about 20 corporations are on the cash method. They are not your mom and pop operators either. For example, one public company's financial data shows that they had sales of more than $1.5 billion last year—that is right, $1.5 billion. Their pretax income was almost $100 million. And how much did they pay in tax? Well, in 1986 they paid $10 million on $100 million in income. They paid $10 million in tax and they deferred almost $40 million. In other words, they owed $50 million in taxes, but they only had to pay $10 million in taxes.

Now, you can see why they like the cash method. The cash method lets them defer the extra $40 million. Try explaining that to a hardworking family trying to make ends meet without that kind of help from Uncle Sam. That is just 1 year. The $40 million in tax savings is just 1 year.

According to this same company's financial statements, their total owed but unpaid taxes as of June 1987 amount to a whopping $135 million. These are taxes that they owe but they do not have to pay because of cash accounting.

This was one company, a public company's financial statement. That is where these numbers came from.

Another company's financial statement showed that in 1986 they had $32 million in income, and you know how much taxes they paid—zero. They paid no tax because of the cash method of accounting.

Well, the Finance Committee saw this, and we said enough is enough, and the committee bill denies cash accounting to corporate farms with sales above $25 million.

But the bill also does something else. It effectively forgives the hundreds of millions of dollars in deferred taxes. That is a gift from the taxpayers of America to a handful of the biggest corporate agribusinesses in this country. How does that happen, you say?

Well, to be quite candid with you, the bill does not say that we forgive these taxes. It talks about a suspense account. They can suspend payment of taxes. There is a euphemism if I ever heard one. Suspending payment of those deferred taxes means essentially not paying them at all.

Mr. President, how can we in this bill ask the elderly and the sick and the poor to pay more to visit the doctor each time they go to see the doctor, which is what we do, while a few wealthy corporations are pocketing hundreds of millions of dollars in taxes no one disputes that they owe? We will have a debate later about income tax rates, and one proposal will be to freeze tax rates at the 1987 levels. The Kassebaum amendment will be debated, et cetera.

But it is clear that some people in this body feel that it is unfair to have a top corporate rate of 34 percent. But if you complain about the unfairness of a top corporate rate of 34 percent, you should scream about the unfairness of the big chicken farmer ripoff.

Mr. President, recall a few minutes ago the description from the public financial data of a company that made $32 million in income and paid zero taxes. That company does not care where the tax rate is. That company does not care if the tax rate is 35, 36, 40, or 46 percent. It uses the cash method of accounting. It does not have to pay any taxes. So naturally it is not so concerned about where the rate is. The people who are concerned about where the rate is are the people who are paying the taxes.

So, our amendment, the amendment offered by the distinguished Senators from Nebraska and North Carolina and me, is fair and reasonable. We simply say to those big companies: You are going to have to pay those deferred taxes, you owe them, you are going to have to pay them. But we are going to give more small farmers the right to continue cash accounting.

First, we raise the cap from $25 to $50 million. This insures that all farmers who have a legitimate claim to stay on the cash method are taken care of. More real family farmers do better under the Exon amendment. Corporations with sales over $50 million have to us the accrual method, and instead of indefinitely suspending deferred taxes, they are going to have to pay those taxes over 10 years: 10 years, not 1 year, 2 years, 3 years, 4 years, but 10 years. I might add that some, including the National Grange which supports this amendment, believe the cap should be $100 million. If our amendment passes and it can be demonstrated to the satisfaction of the conferees that $50 million does not protect legitimate family farmers, then the conference might consider a higher limit.

To me, this amendment is a sound compromise. It is fair to taxpayers, who otherwise would foot the bill to let the big farms off the hook. It is fair to the other farm corporations who have not been using the cash method. These farms have been at a severe disadvantage in the past. Let us not compound the unfairness of putting hundreds of millions of dollars into their competitors' pockets which is what happens under the bill absent the amendment of the distinguished Senator from Nebraska.

Again, the premise of the amendment is simple: People should pay their taxes. If you owe, you should pay. You should not come to Congress and seek a special fix to allow you to escape paying the taxes that you owe.

The Finance Committee bill essentially forgives hundreds of millions of taxes for these corporations. The Exon amendment forces these large agribusinesses to pay the taxes that they owe.

Mr. President, I am prepared to yield back to the distinguished Senator from Nebraska and hope that we support the amendment and look forward to the discussion that we might have on it with the opponents.

Mr. EXON. I thank my friend.

How much time does the Senator from Nebraska have remaining?

The PRESIDING OFFICER. Thirteen minutes.

Mr. EXON. Thank you.

We reserve the remainder of our time.

The PRESIDING OFFICER. Does the Senator from Arkansas yield time?

Mr. PRYOR. Mr. President, if the Senator from North Carolina would like to offer his support for his amendment, I would be glad to yield to him.

Mr. SANFORD. I appreciate that graciousness. I believe I will defer to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas and the Senator from Nebraska control the time.

Who yields time?

Mr. PRYOR. Mr. President, I will speak only briefly at this point.

Mr. President, the two previous speakers and the proponents of this particular amendment and I guess for choice of better words this is called the chicken wars, and I think one of the editorials called it that the other day.

First, this amendment at this time has no business of being on the floor of the Senate. If this amendment passes, it is not only going to very seriously damage the possibility of this legislation being passed but also it is going to begin the unraveling of this very, very carefully crafted piece of legislation, this section of which came from the Senate Finance Committee.

The two previous speakers have spoken about moving various segments of the poultry and the cattle-feeding industry into the accrual accounting system. That is what the issue is about, they maintain.

That issue is moot. It is entirely moot because in both the House version and in the Senate Finance Committee version those companies that sell over $25 million in gross receipts are going on January 1 not 1990, not 1989, but 1988, to the accrual system of accounting.

The competitors of many of the poultry industries have achieved what they want. They want, as they say, a level playing field but now in the final hour of this major reconciliation bill those individuals and those true corporate giants who are now selling over $9 to $11 billion in gross sales are at-

tempting to put other segments of the poultry industry into a very vulnerable position; that position being to, one, put them on the accrual system in January of next year; but, two, to say that you only have a 10-year period to pay back those deferred taxes from the past.

Well, Mr. President, very simply this amendment is going to the heart of an issue, a poultry issue, a cattle feeding issue, a pineapple growing issue, and even, yes, in some cases a family farm issue; that is correct, Mr. President, and I do not deny that.

However, Mr. President, I must say that the poultry industry has no USDA support program. The U.S. poultry industry has grown faster than any other segment of our agriculture economy.

And, as I am sure my good colleague and friend, Senator BUMPERS, will shortly say, we are vitally interested in this amendment because in the State of Arkansas alone, I say to my friends, the sponsors of this legislation, that 1 out of every 12 persons in our State today have their jobs either directly or indirectly in the poultry business. It has been a fast growth industry. And today that industry has said:

> OK, this fight is over. January 1st, we will go to the accrual system. That is what our competitors wanted us to do and that is what we are going to do.

Well, Mr. President, I would say basically that this amendment is not about raising revenues. I know my friend from Nebraska said $300 million over the next 3 years. I think the accurate figure is somewhere around $160 million over the next 3 years.

I do not think, Mr. President, that this amendment is about a level playing field because today this amendment in its present form is a punitive amendment, a punitive amendment, a double hit on many poultry industries across our country.

Finally, Mr. President, it is about one giant company, one giant corporate conglomerate with sales of somewhere around $11 billion each year, attempting to render and make vulnerable many segments of this industry so that ultimately they can go down there and pick them off.

Mr. President, the poultry industry today is not all that healthy. Only look today at the New York and American and over-the-counter stock prices of our poultry stocks and we will see that as a matter of fact.

I urge, Mr. President, our colleagues not to support the Bradley-Exon-Sanford amendment. We do not think it is proper. We think it is punitive. We have shown good faith going to the accrual system.

Mr. President, we are very hopeful that this amendment will not prevail and begin the unraveling of this package that has been put together.

Mr. President, I reserve the remainder of my time.

Mr. GLENN. Mr. President, I want to urge my colleagues to support this amendment. The issue here is not revenue. When you consider the size of our deficit, our amendment wouldn't make much of a dent. What is at issue here is something that is much more important—what is at stake is the principle of tax fairness.

I believe that the Finance Committee correctly closed the loophole that allowed large family farms—many of which are large, profitable poultry producers—to continue to use the cash method of accounting. It is only fair since all other corporations were put on the accrual method by the Tax Reform Act of 1986.

However, it is fundamentally unfair to let these large poultry producers get away without paying any taxes on previously earned, but untaxed income. This is an outrageous loophole. Remember that it was only last year when this Congress required thousands of other corporations to switch to the accrual method and pay taxes on deferred income over 4 years.

I cosponsored this amendment because the same rules should apply to these large, very lucrative poultry producers. These producers knew they would have to pay taxes on this income one day; that is the very point of the cash method. It only defers income; it does not exempt it from taxation. Under the committee's proposal, this deferred income would escape taxation altogether.

I cosponsored this amendment because the loophole it would close is a subsidy to a few very profitable poultry producers. We would be giving one group of companies a tax break that is unavailable to many of its direct competitors in the poultry business. A free market system can ill afford this type of competitive advantage.

Let's be clear about one thing. We are not talking about the small family farm. The amendment is even more generous to the small family farm. While the finance committee proposal requires family farms with more than $25 million in sales to switch to the accrual method, the amendment, in the spirit of compromise, raises this threshold to $50 million.

I urge my colleagues to support this amendment.

Mr. GRASSLEY. Mr. President, I am voting in favor of the amendment offered by Senator BRADLEY on the basis of the fairest approach under the circumstances.

This issue does not involve a question of true family farmers. I do not believe there exist family farmers who make $25 million let alone $50 million.

I share the viewpoint of Iowa's Cattlemen's Association that the cap should be lowered down to $5 million. But that is not an option under this amendment, nor under the Finance Committee's provision.

Therefore, this involves really a question of what very large companies will be required to pay in taxes, and how they pay it. It is not a farmer issue. Therefore, the question of whether the cap it placed at $50 or $25 million becomes less important.

The question really is, Should some companies avoid paying taxes that have been deferred under cash accounting? Simply put, under the Finance Committee's provision, a loophole a mile wide will allow certain companies to avoid paying this tax indefinitely.

Under the Bradley amendment, everyone pays.

Let's take care of the loopholes today.

Another day we can bring the cap down to where it should be.

Mr. WARNER. Mr. President, I ask unanimous consent that a statement by this Senator may be included in the RECORD as stated in full just prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, proponents of the Exon/Bradley/Sanford amendment argue that all agribusinesses should have a level playing field. But they ignore the fact that both the Senate Finance Committee and the Ways and Means Committee, with the approval of the administration, have already done precisely that. Beginning in 1988, all large family farms will be required to pay taxes using the accrual method. As a result, the U.S. Treasury will be collecting well over $110 million in additional taxes during the next 3 years.

Mr. President, the large family-owned farms have already been hit hard by the Finance Committee and the Ways and Means. So what do the supporters of this amendment hope to accomplish? Let's set the record straight.

This issue is, in fact, an internal industry fight. The principal backers of this amendment have already lobbied and won the issue of cash versus accrual. But they are not satisfied. They want more. They now seek to penalize their primary competitors, hoping to pick up additional market share, using the tax system to do the job for them. This is something in which the Government should not take sides.

The poultry industry is going through a period of consolidation. By proposing this amendment, there are companies hoping to weaken the family-farm companies in order to acquire them down the road. The Senate should not vote to support one side or the other in this internal poultry industry battle.

Mr. President, everyone has been talking chickens, but this issue goes

much further than just a couple of large chicken producers. It would also affect the turkey industry, which, I am proud to say, North Carolina is the No. 1 producer. Here are just a few of the North Carolina companies having large family-owned turkey operations:

First, Prestage Farms in Clinton, NC.

Second, Carrolls Foods in Warsaw, NC.

Third, Goldsboro Milling Co. in Goldsboro, NC.

Fourth, Nash Johnson & Sons in Rose Hill, NC.

Fifth, Cuddy Farms in Marshville, NC.

Sixth, Stout Enterprises in Monroe, NC.

Seventh, Circle S. Ranch in Monroe, NC.

Mr. President, the pending amendment lacks merit and I trust the able Senator from Arkansas [Mr. PRYOR] will move to table it at the appropriate time.

Mr. WARNER. Mr. President, I rise in opposition to the pending amendment, and urge my colleagues to vote against it.

This amendment is targeted at the deferred tax liability that several agribusinesses have accumulated under the use of cash method of accounting. While I do not wish to judge the merits of that goal here, the amendment before us imposes a costly retroactive tax burden on a very few farm operations.

Last year, I was one of a minority of Senators to cast a vote against the tax reform legislation. I did so for a variety of reasons. Chief among those reasons was my opposition to the many retroactive provisions in the bill, provisions which businesses or individuals felt they could rely on in planning for the coming years.

This amendment appears to me to be a prime example of tax retroactivity. The amendment before us does not merely change policies in midstream; it reaches back to change tax rules from past years.

I understand that the change currently in the reconciliation legislation is good, well-intentioned tax policy. These farms making over $50 million annually are not family farms, and should not be treated as such. That is part of the underlying legislation. But this amendment, which has been characterized as fair and reasonable is really neither.

The proponents of this amendment claim that theirs is a simple amendment: People and companies should pay their fair share of taxes. I couldn't agree more. But forcing these farm operations to pay these deferred taxes is downright punitive.

A farming operation in Virginia will, under this amendment, find itself saddled with an additional $80 million of taxes to be paid over the next 10 years. This additional, unanticipated tax bill will not come out of the operation's bank account or cash reserves, but will come in lieu of jobs and production facilities. Recapturing this deferred tax liability will have a very detrimental impact on the poultry industry as a whole, to the gain of a handful of agribusinesses.

In opposing this specific amendment, I want to make very clear that I do not oppose every notion upon which it is based. Indeed, there are several agribusiness operations which will reap indirect benefit from passage of this amendment. And some of those businesses have operations in Virginia.

But I cannot stress strongly enough that the amendment under consideration goes beyond good tax policy. The members of the Finance Committee have done that. They have written good tax policy.

If the Senate is interested in doing the right thing, the equitable thing, in the application of our Nation's tax laws, the Senate should table this amendment.

The PRESIDING OFFICER. Who now yields time?

Mr. EXON. Mr. President, I yield 7 minutes to the Senator from North Carolina.

Mr. SANFORD. The Senator is not seeking recognition right now.

The PRESIDING OFFICER. The Senator is not now seeking recognition.

If neither side yields time, the time will run equally on both sides.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina seeks recognition.

Mr. EXON. I yield 7 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 7 minutes.

Mr. SANFORD. Mr. President, I thank the distinguished Senator from Arkansas for his comments regarding the use of deferred taxes for growth in the poultry industry.

I remember helping design what they call the four corners when working on an economic development project in Arkansas. And I would be glad to see this money go to that kind of needed economic development. But this money, several hundred million dollars of it, is going to multimillionaires. It just strikes me that it is extremely unjust, indeed it is unconscionable, for us to stand here with a great deficit and give away at least a half-billion dollars.

Now, if Arkansas finds the chicken business important, North Carolina finds it extremely important. And I represent farmers in North Carolina that have been operating under this cash accounting loophole for years. But I also represent farmers that have been paying their fair share of taxes for years. North Carolina is either second or third in the production of poultry so if this were simply a question of helping the development of the poultry industry, I would not be supporting an amendment. But this is not a poultry question. It is not a question of the economy. It is a question of fairness.

Unfortunately, we have seen that certain companies have been given a tremendous advantage by a loophole that was not intended for them, a loophole that was intended for small farmers. And all of a sudden we find some of the major corporations in the country claiming to be poor family farmers and taking advantage of this loophole.

Now the loophole has been closed. But I cannot for the life of me see why we ought to give these large corporations the money that they owe in taxes, but so far have not paid. Everybody else pays taxes. Everybody else during the time their loophole has been in place paid taxes. And now these large corporations do not want to go back and pay the taxes that they owe.

I might remind my colleagues that 2 years ago we required all corporations with revenues of more than $5 million to move from the cash method to the accrual method of accounting and gave them 4 years to catch up. Now we are giving these large corporations 10 years to catch up. Anybody who owes $100,000 today and has 10 years to pay it off will make another $100,000 by investing those deferred taxes before they have to pay them off. This is eminently fair. It is extremely unfair to all the hard-working people in this country to give away this much money to a handful of large corporations.

Now, as far as the small farmer is concerned, the small farmer in North Carolina feels that they are being put upon by this kind of an approach. Not only do they pay taxes, not only do they pay taxes on time, not only will they be paying taxes in the coming years and they paid them in the past years, but they have found this kind of distortion of the market extremely disturbing to them. This cash accounting has distorted prices in the poultry market as well as the feed market.

This amendment is a matter of fairness. I think it is a matter of simply doing our duty to see that we collect the taxes that are due.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the New York Times, which says, in part: "When other Americans are asked to sacrifice, it makes no sense to except a few multimillionaires;" one from the Washington Post, which comments on this vast giveaway; and a letter from the National Grange in support of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 9, 1987]

THE BIG FARMERS' TAX HARVEST

To most Americans, the difference between "cash" and "accrual" tax accounting remains a matter of accounting esoterica. But a handful of giant, family-controlled farming businesses know how to make the most of it. They use cash accounting, meant to make life easier for individuals and small farmers, to defer hundreds of millions of dollars in taxes. Senator Bill Bradley of New Jersey leads the fight to close this expensive loophole.

Under cash accounting, expenses can be deducted immediately, rather than in the year the expenses are expected to create taxable income. Cash accounting is simpler, but costs the Treasury revenue because it allows tax liability to be deferred. For that reason, Congress in 1986 required virtually all corporations to adopt accrual accounting.

But in the process of preserving cash accounting for family farmers, Washington lumped in the few dozen huge agribusinesses controlled by single families. The biggest, the billion-dollar Tyson Farms Corporation, has used cash accounting to defer $135 million in taxes.

The Senate Finance Committee's tax bill would force all very large farmers to switch to accrual accounting. But like a similar proposal in the House, the bill exempts past deferrals, effectively wiping out hundreds of millions of dollars in accumulated liabilities. Senator Bradley, along with James Exon of Nebraska and Terry Sanford of North Carolina, is asking the Senate to be tougher. Their amendment, expected to reach the Senate floor today, would require full payment of the deferred taxes over the next 10 years.

Closing the loophole will barely make a dent in the Federal deficit. It's the symbolism here that's important.

When other Americans are asked to sacrifice, it makes no sense to except a few multimillionaires.

[From the Washington Post, Dec. 9, 1987]

CHICKEN WAR

A CHICKEN WAR is about to break out in the U.S. Senate. The feathers could hit the fan as early as today.

The issue is more tender than juicy. It involves the taxation of family farms. The tax law has traditionally allowed such entities to use an accounting method under which costs tend to show up faster than revenues. When an operation is growing there is almost always enough cost around to enable the operator to defer recognition of profit and, therefore, defer some taxes. The right to defer taxes is valuable, the equivalent of an interest-free loan.

Helping family farmers is not the worst thing in the world. They occupy, and perhaps deserve, a special place in our lore and politics. But there's a problem with this provision. Some family farms have become quite large and no longer deserve the special treatment.

In last year's cleansing of the tax code an effort was made to deny use of the magical accounting method to the largest family farmers. It failed, but this year it was revived in the name of deficit reduction. The reconciliation bill passed by the House last month as part of its $12 billion tax increase would limit use of the cash accounting method to family farms with gross receipts under $25 million. So would the bill from the Senate Finance Committee awaiting action on the Senate floor.

But in taxes there is always another layer. Yes, the larger farmers—many of them chicken producers, including Perdue Farms of Maryland—would have to use a more balanced accounting method in the future. But no, they wouldn't necessarily have to pay off their deferred taxes from the past. It's conceivable they'd never have to pay them, though for some the amounts are in excess of $100 million. The chairman of the House Ways and Means Committee, Dan Rostenkowski, even offered to let them stage the payments over several years. He was beaten in his own committee, 11 to 10, on the proxy of committee member and presidential hopeful Richard Gephardt. Some members of the Finance Committee also pressed for payment and were similarly rebuffed.

Now one of them, Bill Bradley, intends to offer a chicken amendment on the floor. The amount at stake is not as large as the principle, but the amount is not paltry, either. The Senate should crow aye.

NATIONAL GRANGE,
Washington, DC, December 9, 1987.

Hon. BILL BRADLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BRADLEY: On behalf of its over 365,000 members, the National Grange endorses the Senate leadership's deficit reduction package as a responsible attempt by lawmakers to exercise prudent fiscal responsibility and as a sound alternative to sequestration.

The National Grange, along with many other national agricultural organizations, endorsed Title VIII—Agriculture as reported by the Senate Agriculture, Nutrition, and Forestry Committee, in a letter of December 9. We ask that any amendments offered to Title VIII on the Senate floor be carefully scrutinized since the package as reported is a well-crafted vehicle for conference.

With regards to the revenue provisions of the reconciliation bill, we do have two concerns that need to be corrected during floor debate. First, the National Grange strongly opposes the provision which allows corporations who must change their methods of accounting to hold prior deferrals in a suspense account. We do support a cap on cash accounting at $100 million but realize that the Exon-Sanford-Bradley Amendment, which caps cash accounting at $50 million and allows a 10 year payback of previous deferrals, is a fair compromise and, therefore, encourages you to support this amendment.

Second, the Grange strongly opposes any change from current law for FICA tax collection as it pertains to services performed by certain agricultural workers and we have reservations with changes regarding spouses and individuals aged 18 to 21 working for their parents. Both provisions will burden agricultural employees/employers. The repeal of the 20-day test and addition of the new $2500 annual payroill test will seriously hamper the use of seasonal workers and increase production expenses of producers (particularly for fruit and vegetable producers).

It is our hope that the above mentioned concerns will be addressed during floor debate. As stated before, we do support passage of the leadership's package as an acceptable alternative to sequestration. We look forward to working with the conferees to assure a final package that meets the needs and concerns of rural America and the nation as a whole.

Sincerely,

MARK C. NESTLEN,
Legislative Representative.

The PRESIDING OFFICER. Who now yields time?

Mr. PRYOR. Mr. President, I think the minority leader is seeking recognition.

Mr. DOLE. Will the Senator yield to me?

Mr. PRYOR. I am glad to yield to the minority leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, earlier today, I visited with the distinguished majority leader on how we could expedite this bill. And I say very honestly, I have friends on both sides of this amendment, so it is one of those kinds of amendments.

We had an amendment just before this one, the Harkin amendment, that had a lot of merit. But in an effort to pass this deficit reduction package, I voted against it. I think it has been generally agreed that unless there is some exceptional reasons that that would be the leadership position. I think we must demonstrate to the American people that we can move ahead, get this deficit reduction package out of the way.

This amendment was discussed in committee. It probably has a great deal of merit, but I am willing again, as I said the last time, to either help table this amendment or vote against it for one single reason at this time, and that is to get on with the deficit reduction package, get it passed, and get to conference.

We are going to meet again next year—and that is not very far off—and I assume this amendment will come back up again, or at least some modification of it. So I hope that this amendment can be defeated on this measure, just as the last amendment was defeated.

Now, this amendment only needs 51 votes, because it is germane. But I am willing to take a little lead. That is the leader's responsibility, from time to time. I think most Members want to finish this bill and demonstrate that we can govern and do the work and, I would hope, on that basis at the appropriate time there be a motion to table this amendment and any other amendment, including any I might have on this bill.

Mr. BYRD. Mr. President, would the Senator yield me 2 minutes?

Mr. PRYOR. I would be glad to yield to the majority leader.

Mr. BYRD. Mr. President, I associate myself with the remarks of the distinguished Republican leader. This package is the efforts that have been put forth by our own selectees, who went to the meetings, attended the

summit dutifully: Hourly, daily, weekly.

Now, this is the test. If we start amending this bill it starts unraveling and we will have our choice as to whether or not we want to sequester and let the people know that we cannot do anything, that we are musclebound and that they cannot look to us, the Senate, to govern its own passions and continue to be undisciplined.

I hope that we will vote to table this amendment. I am not saying it does not have a lot of merit. But let us keep our eyes on the ball. The important thing here is to bring about budget deficit reduction. The President is joining with us in this package.

It is one thing to offer an amendment to satisfy our own consciences. But we also have to have a conscience about this package. This is our one chance. I hope Senators will remember that when they vote.

We can be around here Christmas week and we can be around here the week after Christmas or we can have a sequester.

Mr. President, I urge Senators in this instance to vote against the amendment—vote to table it.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Mr. President, I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. PRYOR. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from Arkansas has 19½ minutes. The Senator from Nebraska has 8 minutes and 45 seconds.

Mr. PRYOR. I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. ROTH. Mr. President, I rise to speak against the amendment offered by my colleagues that would strike the Senate Finance Committee provisions requiring farm corporations to change from the cash to accrual method of accounting.

Both the Finance Committee bill and the amendment offered by my colleagues address three issues that arise in requiring some farm corporations to change from cash to the accrual method of accounting. The first issue is the gross receipts threshold at which companies will be required to change form cash to accrual. The second issue is whether the deferred tax liability is recaptured. If it is, the third issue is how long the taxpayer will have to pay back the deferred tax liability.

The Finance Committee bill applies to corporate family farms with more than $25 million in annual gross receipts. The amendment being offered raises the threshold and applies to companies with more than $50 million in gross receipts.

Both the Finance Committee provision and the amendment being offered require the past deferred tax liability to be recaptured. How long the taxpayer will be given to pay back the deferred tax liability determines the degree of retroactivity the change in the law will have on the taxpayer.

I supported the Finance Committee provision because I generally believe that when Congress decides to change the law, it is unfair to tell the taxpayers that it is being changed retroactively. While I recognize the need for all companies to compete on the same basis, I do not think it is justifiable to retroactively require companies that have relied upon specific statutory provisions to pay back immediately a deferred tax liability that was built up in compliance with existing law.

Let us also recognize who has benefited from current law. Most importantly, the American consumer has benefited from lower poultry prices, as poultry production has flourished without any of the subsidies that have benefited other agricultural commodities. Moreover, poultry production has flourished even though commodity price supports have hurt the producers.

The cost of production for poultry farmers has been increased due to the price support system that has artificially raised the cost of their primary inputs—corn and soybeans.

The Senate bill is a carefully crafted compromise which will require all companies to compete on an equal basis, prospectively. All taxpayers with gross receipts in excess of $25 million will be on the accrual basis for tax years beginning after December 31, 1987. It must be remembered that the much maligned "suspense account" in the Senate bill is not forgiveness of the tax liability, it is simply a deferral. And it is not nearly as generous as current law.

Under current law, a family farm corporation's deferred tax liability can be triggered in two ways. First, if the family sells its controlling interest in the company, therefore failing to meet the family farm test, the deferred tax liability must be recognized over 10 years.

Second, if the corporation fails to expand, increasing its gross receipts and expenses from year to year, a portion of the deferred tax account must be taken into income that equals the percentage reduction in gross receipts during the same period.

Essentially, the Senate bill captures the deferred taxes in a suspense account, and the circumstances under which the tax is triggered on the suspense account are not nearly as generous as current law. In the first case, in which the family loses control of the business, the deferred tax liability is due in 1 year under the Finance Committee bill, rather than in 10, as is provided under current law.

In the second case, if the business fails to maintain the same level of receipts from its farming operations, a portion of the suspense account is taken into income under this rule, just as it would have been under current law cash accounting rules.

Much has been made of the "big giveaway" to the largest corporate farmers. Personally, I don't believe that when Congress decides to change the law and increase the tax liability on a limited sector of an industry by $100 million there has been a giveaway. It is ridiculous to suggest that when Congress changes the rules, unless we retroactively recapture all the previously deferred tax benefit immediately, there is a giveaway.

A real giveaway would be a fresh start, rather than just a suspension. Although I am not suggesting that outright forgiveness is appropriate, there are certainly a number of precedents for simply forgiving the tax liability.

For example, when the 1954 code originated accrual accounting for almost all businesses—other than farmers and personal service organizations—that had previously been on cash accounting, all pre-1954 deferred taxes were forgiven. In 1984, Congress changed the DISC [domestic international sales corporations] rules for U.S. exporters, all previously deferred taxes were forgiven.

The total amount of DISC related taxes forgiven was approximately $14 billion, with several individual companies saving over $500 milion in taxes. In 1982, the rewriting of the life insurance rules included at least two fresh start provisions, including MODCO—modified coinsurance.

In each of these cases, Congress forgave the deferred tax liability, going far beyond the scope of the "suspense account" which simply requires the deferred tax to be paid when the company ceases to expand, or the business is sold.

My colleagues have argued that the suspense account is effectively a permanent deferral for a few of the biggest companies that will continue to grow and will continue to be closely held. However, facts in the marketplace simply do not support their argument. Market surveys show that consumption is no longer growing at boundless levels. Salmonella scares have caused recent declines in poultry consumption.

In fact, many of the smaller companies had real economic losses last year. A change in the law that would now force them to pay back their deferred tax liability immediately, while they were actually losing money, would force them to sell out to the largest

producers sooner, rather than later. However, with the suspense account, the tax won't be due until they sell their business, or the marketplace dictates it is no longer economical for them to grow or stay in business.

Mr. President, I want to reiterate the issue here is not whether all family farms with gross receipts in excess of $25 million should be put on the accrual basis of accounting. That is agreed. The only issue is whether the change in the law should be retroactive. As a general principle, I have opposed retroactive changes in the tax laws.

The Finance Committee bill requires that the deferred tax liability be recaptured when market conditions dictate the farmer's gross receipts from farming should be reduced, or when the business is sold.

The PRESIDING OFFICER. Who now yields time?

Mr. PRYOR. Mr. President, I yield what time the distinguished chairman of the Finance Committee requires.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Let me state that we discussed this for some time in the committee and we went through many mutations of it. It is obvious that some kind of transitional period has to be thought about in this instance and I support the final conclusion of the committee.

I want to echo the comments of the leadership, both the majority and the minority. If we start going down this road and we lose these amendments, I do not know where we stop. The whole process can unravel. Then you get the problem of spillover, I think, into the continuing resolution, and the unraveling of the appropriations process.

We do not have much time left. To those that think we cannot stay on beyond Christmas, I would just note that when I was first sworn into the U.S. Congress as a freshman House Member, it was on December 30 of that particular year. So it is possible to work right on through the holiday season. I hope we can avoid that and come to an early conclusion and support the leadership in this process.

The PRESIDING OFFICER. Who, then, yields time?

Mr. EXON. I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

Mr. DURENBERGER. Mr. President, I am pleased to cosponsor the amendment offered by my distinguished colleagues from New Jersey and Nebraska. I am a member of the Finance Committee. This issue was discussed there.

I rise because of the plea by the leadership, which is certainly understandable. I can understand the need for the leadership to expedite passage of this particular measure. I made my decision to cosponsor this amendment today, and I made my decision to speak on it within the last hour or so, despite the fact that I have and I will continue to support the leadership package all the way through.

This amendment would restore a level of equity and fairness to the small family farmers of America who face stiff competition from giant farm corporations.

The amendment we are offering today would require that large farm corporations switch from the cash method of accounting to the accrual method, and that when they make this change, they must include in income over a 10-year period, any increases in income—and, therefore, taxes owed—resulting from the accounting change.

Mr. President, there is no argument over whether large farm corporations should be required to change their accounting methods. Both the House bill and the Senate Finance Committee bill require large farm corporations to shift to the accrual method.

The only issue for debate is whether the farm corporations required to make this accounting change must pay taxes on the amount of income previously deferred under the cash method.

In all candor, I must say that I am somewhat surprised that we are even considering the issue whether these large farm corporations should be required to adjust their income to reflect the change from the cash method to the accrual method. Whenever any taxpayer makes a change in his accounting method, the taxpayer is required by law to adjust his income to reflect the change in accounting method. Such an adjustment is not voluntary; it is mandatory for every taxpayer in America.

The policy of requiring such adjustments reflects a simple fact: When taxpayers change their accounting methods, adjustments are necessary to reflect the transitional changes that occur between the old method of accounting and the new method. In most instances, when the change in accounting method occurs, taxpayers are required to include in income a portion of the income that was deferred by using the old accounting method.

The Internal Revenue Service recognizes that such accounting change adjustments can cause genuine hardship for some taxpayers. Therefore, IRS often allows taxpayers to spread out the effect of the change over a period as long as 6 years.

In last year's Tax Reform Act, we voted to require most corporations and partnerships with more than $5 million in gross receipts to shift from the cash method of accounting to the accrual method. In so doing, we required these companies to spread out the effect of the accounting change over a 4-year period.

Yet in the accrual accounting provision adopted by the Finance Committee, we have, in effect, suspended the requirement that large farm corporations make the adjustment that we require of all other taxpayers. This, in effect, amounts to a forgiveness of tax which cannot be justified.

The amendment we are offering today allows farm corporations to spread out the effect of the accounting change over 10 years. I think this is more than fair. Small farmers have had a hard enough time competing with these large farm corporations.

Changing the tax laws to effectively forgive these taxes can only serve to reward those farm corporations that have found it beneficial, for tax purposes, to overproduce at the expense of the small farmer. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who now yields time?

Mr. PRYOR. Mr. President, I yield 3 minutes to my colleague, Senator BUMPERS, from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. BUMPERS. Let me disabuse my colleagues of the idea that somehow this is only a poultry issue. The Senator from New Jersey has pointed out that there are 20 big integrated poultry companies in the country that have been using the cash accounting basis. I think there are many more, but I want you to know that there are wineries in California, there are feedlot operators in Colorado and in Texas, there are vegetable growers in Florida and in Texas, and there are hundreds of other farm businesses in this country which are using cash accounting and who potentially are affected here.

That brings me to the poultry industry of which I am an unabashed defender because it provides 1 out of every 12 jobs in my State. A year ago, "Sixty Minutes" did a big story on salmonella in poultry and its sales plummeted. The Senate Agriculture Committee held a hearing on salmonella in poultry and sales plummeted further. Then following these big sales drops, the Finance Committee delivered the coup de grace to this just barely breathing industry by putting them on an accrual accounting system.

The poultry industry has been in a loss position for the last 6 months and it anticipates that it will lose at least 1 cent a pound on all 15 to 16 billion pounds of poultry it produces next year.

What we are doing here is beating a dead horse, one that has got only a little life left in it.

I want to disabuse you of one other notion. The Senator from New Jersey

said that the Finance Committee bill on the issue of deferred taxes is a gift. It is not a gift. It never was a gift for these companies to defer their tax payments and it was not tax evasion. As long as these firms expanded, built new plants, produced more jobs, they could defer their tax payments.

But the minute their sales declined, they had to pay. And they are going to have to pay taxes anyway under the Finance Committee version.

If you adopt the Bradley amendment or the Exon amendment, here this industry is, almost down for the count, and it will have to start paying taxes January 1 when at the same time they are going to accrual accounting.

Bear in mind, now, do not be deceived, these firms have to go on the accrual accounting method on January 1, and they will at the same time be paying taxes that have been previously deferred.

Let me give you an illustration of what the Bradley amendment will do to the medium-sized poultry firms. Incidentally, they are not all multimillionaires.

We all know the one company to which he is alluding. It is a good company. It is a good company in my State and it produces a lot of jobs. And it is the biggest poultry producer in the world.

But the companies you are talking about here are not all that big.

Let me give you an example of a medium-sized poultry operator, for example, in my State.

Mr. President, how much time does the Senator from Arkansas have remaining?

The PRESIDING OFFICER. Fifteen minutes.

Mr. BUMPERS, Will the Senator from Arkansas yield an additional 2 minutes?

Mr. PRYOR. I can yield 1 minute to the Senator because a couple of people have to catch a plane. I will do that.

Mr. BUMPERS. Let me give this example. Let us assume that a company next year in the poultry business loses money. Let us assume they lose $1 million. Let us further assume that they have $50 million in deferred taxes. Under the Bradley amendment they will have to start paying on $5 million in deferred income, while they have a loss of $1 million. The tax on $5,000,000 in deferred income is $1.4 million. If this went on for 10 years, that means they will pay $1.4 million in taxes while they're losing $1 million per year. Who do you think can sustain that? Answer: Nobody.

Mr. President, you talk about taking care of the poor folks, I will tell you we have thousands, tens of thousands of people in my State working in the poultry industry. I promise you, this is a bill that is going to force a lot of firms out of business, and who is going to buy these firms? Who do you think is behind this amendment? If the proponents are really just the white hats wanting to collect taxes, why has the limit been raised from $25 to $50 million? The sum of $50 million is not exactly a mom and pop operation, is it?

I will tell you why it was raised. Because the sponsors started getting phone calls from people saying, "You have to raise it another $25 million to take care of me."

Mr. PRYOR. I yield 1 minute to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I had a very erudite and convincing speech that I was going to make on this matter, but to accommodate the plane catchers, I will just concur in the remarks of the distinguished Senator from Arkansas and the distinguished Senator from Texas who have already spoken.

Thank you, Mr. President.

Mr. PRYOR. Mr. President, I yield 1 minute to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Arkansas for yielding time to me.

I will follow the lead of my good friend from Alabama and say that I support the committee leadership who are trying to keep this a clean reconciliation bill so that we can meet the challenge that is before the Senate. That is to try to do something effective that we can have a consensus of support on to reduce the deficit, not to give Senators an opportunity to bring their pet projects to the floor and under sharp time constraints maybe luck out and hit paydirt with an amendment.

The Finance Committee has reviewed this proposal very carefully. They have rejected it. I think the Senate ought to respect the judgment that committee has made and reject it also by agreeing to the motion to table the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PRYOR. I yield 1 minute to the Senator from Iowa.

Mr. HARKIN. Mr. President, I want to follow the point made by the distinguished Senator from Arkansas, Senator BUMPERS.

The committee was going in the right direction. They lowered the gross sales limit on cash accounting down to $25 million. Now this amendment seeks to raise it back up to $50 million. These are not mom-and-pop operations you are helping.

My family farmers in Iowa do not benefit from this change. I thought it was a good compromise, to lower it to $25 million. They were going in the right direction.

Now the amendment of the Senator from New Jersey raises it back up to $50 million.

As the Senator from Arkansas said, these are not mom-and-pop operations. The amendment tends to go in the wrong direction again. For that reason, I stick with the committee amendment because I think it is going in the right direction.

The PRESIDING OFFICER. The Senator from Arkansas has 8½ minutes remaining and the Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, there's a sense of outrage on this floor. Anger has been expressed by the Senator from Arkansas and the Senator from Iowa. What they are outraged about is the proposition that people who owe taxes should pay taxes. That is what the outrage is about because what this bill does is to say that very large agribusinesses who owe hundreds of millions of dollars can suspend indefinitely the payment of taxes that they have incurred in previous years. That is what the proposition is.

Mr. President, I would hope that before we go along with the great chicken farm ripoff, which is embodied in this bill, that we stop and think do we really want to reject the proposition that people who owe taxes should pay taxes. I hope we will assert that people who owe tax should pay and support the amendment of the Senator from Nebraska.

Mr. BUMPERS. Will the Senator yield 1 minute?

Mr. PRYOR. I yield 1 minute.

Mr. BUMPERS. Mr. President, I do not know how much plainer we can make it. Under the Finance Committee amendment the threshold goes directly down to $25 million. These people are not being forgiven anything. The difference between the Bradley amendment and the committee amendment is when they are going to pay the taxes they have deferred, not whether they are going to pay the taxes.

Go back and look at the committee amendment. It requires the payment of deferred taxes. Not one dime of it is forgiven. It is a question of whether you are going to hit them next year at a time when they are losing a penny a pound in the chicken business or later on.

I do not know that much about all the other feedlot operators and vegetable farmers who are on cash accounting, but I can tell you they also are all going to pay every dime of taxes that has been deferred.

The sponsors want them to start next year and I do not. That is the difference.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. I would like to make a correction in what the senior Senator from Arkansas said. They do not have to pay their back taxes off unless it is sold off to another entity. The Senator from Arkansas is mistaken.

This is one whale of a break in what they are getting under this program. What we said last year to our constituents who had $5 million in revenues was we forced them to switch to the cash method of accounting and to pay their deferred taxes over 4 years.

This amendment takes a step in rectifying what will remain an inequity. The farmers still get a tremendous break. We are not putting them on the same scale as everybody else, not by a long shot. Even after this amendment, family farms over $5 million but less than $50 million will still be using the cash method of accounting. Even after our amendment, family farms with incomes over $50 million will have not 4 years but 10 years to pay their taxes on their deferred income. Absent this being approved, the suspension remains in there and they never pay taxes on their past income unless they sell the business.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, how much time does the proponent of the amendment have remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 3½ minutes, the Senator from Arkansas has 7 minutes. Who now yields time? Time runs equally against both sides.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I have been listening with interest and I feel there are an awful lot of people who are misinformed as to what this amendment does. There has been talk of objection to this amendment because somebody brought in a pet project. The pet project was the chicken egg that was laid and hatched in the Finance Committee. That is where the pet project is. This amendment only corrects an unfair pet project, and I am wondering if people really understand that. Leadership and others have come to the floor and said, "Well, this has a lot of merit, but don't pass it now because it will unravel the package." Why would you unravel a package when you are raising $300 million more in the next 3 years to help us adjust to this deficit situation?

I think it not wise for the leadership to say, "This is the package that we have devised; don't fool with it; do not touch it; it is as perfect as we can be; and we are opposing it because it might unravel the package."

What they are saying to us is, "You are in a straitjacket. You buy what we dictate and we are not going to tolerate any tampering with it."

Any time we can raise additional funds that are due, any time we can make a satisfactory arrangement where these people who had had their taxes deferred can pay them back in 10 years where always before when we have converted from cash to accrual accounting we have only given them 4 years, it is not accurate at all to say that this is not forgiven to many corporations, because all of these corporations that are getting this sweetheart chicken deal today would, if this amendment is not adopted, continue to receive it as far as they could into the future so long as that family owned that corporation.

It is not fair. It is an egg laid in the Finance Committee. It is a pet project. We are trying to correct it here for fairness and to get some additional income.

Mr. President, I ask unanimous consent to have several newspaper articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 14, 1987]

"FAMILY FARM" TAX BREAK ISN'T CHICKEN FEED

(By James Flanigan)

With lobbyists and tax lawyers fidgeting in the wings, the House Ways and Means committee on Tuesday took up reconsideration of last year's Tax Reform Act looking to get about $6 billion of new taxes by closing loopholes—among them the curious case of the billion-dollar family farm.

That's a reference to a tax law curiosity that allows farming corporations, no matter how large, to use a method of accounting intended to aid small family farmers. Big companies can qualify as family farms—even if they are listed on major stock exchanges—if 65% of their stock is owned by no more than three families. For example, the company that makes McDonald's Chicken McNuggets—Tyson Foods of Springdale, Ark.—qualifies as a family farm even though it has about $1.7 billion in annual sales.

How can that be? It's the kind of distortion that arises when tax law makes social policy. Back in 1976, in an earlier change in the tax laws, Congress decreed that all corporations should adopt the same type of cost accounting—called accrual accounting—the type, naturally, that brought the government the most tax money.

HEAVY LOBBYING

But it exempted family farms, so as not to impose on small businesses the burden of keeping records like big corporations. Farmers could use cash accounting, which allowed them to continually defer taxes by purchasing feed at the end of one tax year and reaping the income from the fattened chicken or animal in the next. As long as they bought the same amount or more feed at the end of each tax year, that is, they could defer taxes indefinitely and thus enjoy an interest-free loan from the government.

A nice deal for those who qualify and, as it happens, 18 of the 20 largest poultry farmers in the United States—names like Perdue, Gold-Kist, Foster Farms, Hudson Foods, Pilgrim's Pride, Pennfield—are technically family farms and able to use cash accounting, even though all have revenue of $100 million or more and, presumably, are capable of keeping records like any other big company.

So credit the law of unintended consequences for their tax break.

But credit also the law of countervailing power—or more simply, envious competitors—for trying to get it repealed. Among top chicken producers there are two companies whose pattern of stock ownership does not qualify them as family farms. One is ConAgra Inc., an Omaha-based $9-billion (sales) giant of the food industry that is the second-largest chicken producer after Tyson. Holly Farms, a $1.4 billion (sales) Memphis company, is the other chicken producer denied use of the cash accounting tax break. And so Holly and ConAgra are spending money on lobbyists and public relations—$500,000 for a six-month assignment is customary—to persuade Congress to undo the tax break of the big family farmers, who, of course, have hired their own lobbyists to influence Congress to leave the law alone.

Full employment for lawyers and influence peddlers. Is that how the system works?

GIVES COMPETITIVE EDGE

As a matter of fact it is, says Cliff Butler, chief financial officer of Pilgrim's Pride Corp. of Pittsburg, Tex. That tax benefit, Butler says, "is the reason the consumer enjoys low-priced chicken"—a reference to the fact that chicken hasn't risen in price in half a century, and can still be had in the supermarket for 60 cents a pound.

But tax breaks aren't the reason. Productivity and economies of scale have made chicken a big and efficient industry. Tyson, for example, has its chickens grown by 6,500 contract farmers, employs 26,000 people itself. ConAgra and the other big producers have similar arrangements. It's an industry that will give the American people an estimated 7 billion chickens this year, whether in supermarkets or restaurants.

The tax break, in fact, may be a minor thing in such an industry. But it helps, says James Blair, counsel for Tyson Foods, which deferred $100 million in taxes last year. "Cash accounting encourages investment," Blair says, "It's the way we have always used tax policies, not merely for revenue but for national priorities." Blair neglects to mention that because it is not available to all, the tax break is a competitive advantage by act of Congress.

It is the kind of thing, in fact, that tax reform was supposed to do away with—distortions arising from the confusion of tax and social policy. The family farm provision survived last year, however, and may indeed survive this week. It is low on Ways and Means' list of priorities because repealing it doesn't promise that much additional tax money, and the lobbyists for and against it may cancel each other out.

Common sense may say that a billion-dollar business is not a family farm, but lobbyists and tax lawyers have little time for such sentiment.

[From the Arkansas Democrat, Oct. 17, 1987]

MEASURE CANCELS TYSON, HUDSON BACK TAXES

(By Rex Nelson)

WASHINGTON.—When the House Ways and Means Committee put together a package to raise $12 billion in new revenues for fiscal 1988, it included a little-noticed provision that could save giant poultry producers in Arkansas about $500 million over the next three years.

The committee announced Thursday it had adopted an amendment that would repeal the cash method of accounting for companies qualifying under a loophole left in the 1986 tax bill. In that loophole, Tyson Foods Inc. and Hudson Foods Inc. fell under the definition of family farms, while one of their major in-state competitors, ConAgra Poultry Co. of El Dorado, did not qualify because it is owned by a conglomerate.

What was not revealed was that committee Democrats (Republicans boycotted the drafting sessions) approved another amendment preventing the federal government from collecting deferred taxes from companies remaining at least 50 percent family-owned.

Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., had favored a proposal designed to raise $600 million over three years. The amendment repealing the cash method of accounting will raise just $100 million during that period.

According to The Wall Street Journal, Rep. Beryl Anthony Jr., D-Ark, led the fight to kill the Rostenkowski plan and thus save Tyson and Hudson potentially millions of dollars. The amendment to prevent the government from collecting deferred taxes ties 10-10, which would have killed it. But, according to The Journal, Anthony voted by proxy for Rep. Richard Gephardt, D-Mo., and the motion passed 11-10.

Anthony, who represents Arkansas' 4th Congressional District, which includes El Dorado, is a friend of Gephardts' and has been a strong supporter of his campaign for the 1988 Democratic presidential nomination.

Anthony, who was not available for comment Friday, received $1,500 from Tyson family members for his 1986 re-election campaign. He is chairman of the Democratic Congressional Campaign Committee, which, according to The Journal, received $30,000 in contributions along with a sister committee from Tyson family members on a single day in April.

Tyson, the country's largest poultry company, is headquartered in Springdale. Hudson Foods is based in Rogers.

Firms qualifying for the loophole could defer paying taxes when stocking up on birds, feed and other inventory at the end of each year.

Rep. Bill Frenzel, R-Minn., called the amendment preventing the government from collecting deferred taxes "a Perdue-Tyson poultry scam."

Perdue Farms Inc. is a large poultry company based on the East Coast.

"They gave them a half-billion dollar free ride," Rep. Hal Daub, R-Neb., told The Journal.

The Tyson family has donated $168,900 in the last 2½ years to congressional candidates, party committees and political action committees. Most of those contributions have gone to Democrats, including several members of the tax-making Ways and Means Committee.

The 1986 tax bill forced most companies with more than $5 million in annual receipts to switch from the cash method to the accrual method of accounting. Those companies then were forced to pay taxes on all previously earned income.

While forcing the poultry giants to switch accounting methods, the practical effect of the Anthony amendment is that those companies don't have to pay the back taxes.

"It's unbelievable," one Washington tax attorney said.

FUN AND GAMES WITH CHICKEN FEED

(By Ruth Simon)

Most reasonable observers would not call Hudson Foods a family farm. Based in Rogers, Ark., Hudson is now the country's 17th-largest poultry producer. In the fiscal year that ended last Sept. 28, Hudson earned $8.5 million on sales of $185 million. It went public in February, raising $21.3 million.

Your basic family farm? The Internal Revenue Service, not always a reasonable observer, thinks so. As a result, Hudson was able to defer $7.6 million, its entire federal tax bill, last year under long-standing IRS rules. This deferral can be rolled over more or less indefinitely.

Hudson is not a fluke. Other agri-industrial complexes, including $1.1 billion (sales) Tyson Foods and privately held Perdue Farms (estimated sales, $740 million), also routinely receive tax breaks originally intended for family farms. How? By qualifying under some rather arcane rules that allow "family farms" to use cash accounting instead of the accrual accounting the IRS requires most companies to use when computing taxable income. The rules date from 1919, when the Treasury concluded farmers weren't sophisticated enough to use accrual accounting and said they could use cash accounting instead. Big farmers didn't abuse the provision, because taxes were low. Besides, there weren't many big farms.

The choice of cash or accrual is especially important for livestock farmers because such production costs as feed are incurred well before the livestock is sold.

Consider a chicken farmer. Accrual accounting would require him to report a portion of his feed inventories at the end of each year, while not permitting him to expense the feed until the bird was actually sold. The theory is that the feed is an integral part of the cost of producing the bird. Accrual accounting says income and expenses should be matched, so feed costs should not be deducted until revenue is received.

Cash accounting, in contrast, allows the farmers to report cash expenses and receipts when they actually occur. That means the farmers can immediately deduct the feed as an expense, but he doesn't have to report the chickens as income until they are sold. Expensing in the current period while deferring income to a later period amounts to a tax-free loan to the farmer from the Treasury. The bigger and more profitable the farm, the larger that tax-free loan tends to be.

In 1976 the Treasury argued that agribusinessmen were equipped for the rigors of accrual accounting. Treasury tried to limit cash accounting to farmers grossing less than $1 million annually. That sent the big livestock producers squawking to their congressmen, who chickened out. Even a farm grossing $1 billion or more could be a "family farm," Congress said, if at least 50% of its stock was controlled by a single family. It also carved out exceptions for individuals, partnerships and Subchapter S corporations and for farm corporations controlled by two or three families.

Hudson Foods Chairman James Hudson played those loopholes with the skill of Stephanie Grapelli on jazz violin. Hudson, a former Ralston Purina executive, and two other investors bought the business from Ralston Purina in 1972. Hudson bought out his co-investors in 1984, and took the farm public in February.

But note the key: Hudson Foods has 12 million shares outstanding. James Hudson owns outright 7 million of those shares, 58%, and has the right under a revocable proxy to vote an additional 3 million shares owned by his family and company executives. With Hudson effectively controlling 10 million shares—83% of the common—Hudson Farms can do several more public offerings and still qualify as a "family farm."

Hudson cheerfully agrees "it's been a long, long time" since he drove a tractor. But, he says, "Farming, as defined in the tax code, is the production of farm products. It doesn't matter whether you ride a tractor or a horse." In other words, say Hudson, all farmers are created equal and should be treated equally by the IRS.

Springdale, Ark.-based Tyson Foods, the nation's second-largest poultry producer (after ConAgra), is also proving adept at playing by the family farm rules. This $1.1 billion agricompany contracts out chicken production to thousands of small farmers, and it derives more than 60% of its revenues from such "further processed products" as Chicken McNuggets and frozen dinners.

To remain a family farm—but also raise public equity—Tyson recently reincorporated in Delaware, where it can issue two classes of stock. The Tyson family will trade its 55% Class A holding for restricted Class B shares that carry ten votes each. Outside shareholders can keep the Class A shares or swap them for Class B, which pays a lower dividend. If only the Tysons make the switch, they will control 92% of the voting rights—far above the magic 50% minimum. Any new stock issued by Tyson will be of the Class A variety.

Important? It is to Tyson. Tyson earned $35 million in the fiscal year that ended Sept. 28. Cash accounting allowed it to defer about $26 million in taxes. That amounted to 78% of Tyson's 1985 federal tax bill.

"We consider ourselves as an umbrella over about 6,000 farms and farm families," says Chairman Don Tyson, defending his use of the family farming rules. "If we didn't have this kind of situation, we couldn't protect those 6,000 farmers."

But do family farmers need such protection? The fact is, cash accounting often works against farmers by making cattle, hogs and certain orchards attractive tax shelters and by encouraging overproduction. "I've seen too many instances where egg producers or others on a cash basis will expand their operation to avoid paying income tax," says Agriculture Secretary Richard Lyng, who was briefly on Hudson Foods' board. "That kind of tax policy has caused family farmers a lot of trouble."

Chuck Hassebrook of the Center for Rural Affairs in Walthill, Neb. agrees. "Cash accounting," he warns, "really distorts supply and demand." And Tyson may soon freeze the amount it defers because tax factors are warping its business decisions.

This seems like just the kind of loophole genuine tax reform should plug. Indeed, the Administration's reform proposals would have limited cash accounting to companies with less than $5 million in gross receipts. But the big farmers and their lobbyists squawked as in 1976, and congressmen again clucked. Reforming farmers' cash accounting was one of the first proposals to be dropped last year by congressional tax writers.

Mr. EXON. Mr. President, I am prepared to yield back any remaining time that we have if the same is true with the opposing forces.

The PRESIDING OFFICER. The Senator has yielded back his time.

Mr. BRADLEY addressed the Chair.

Mr. PRYOR. Has all time been used, Mr. President?

The PRESIDING OFFICER. The Senator from Nebraska has 38 seconds.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Is the Senator from Arkansas prepared to yield back the remainder of his time?

Mr. PRYOR. We are prepared to yield it back. We have no more requests for time. Does the Senator from New Jersey yield back the remainder of his time.

Mr. BRADLEY. Yes.

Mr. EXON. I yield back the remainder of the 38 seconds of which I have control.

Mr. PRYOR. Mr. President, I move to table the Exon-Bradley amendment.

The PRESIDING OFFICER. There is a motion to table.

Mr. BRADLEY. Mr President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—53

Adams	Garn	Pressler
Baucus	Gramm	Proxmire
Bentsen	Harkin	Pryor
Biden	Hatch	Quayle
Bingaman	Hatfield	Reid
Boschwitz	Hecht	Riegle
Breaux	Heflin	Rockefeller
Bumpers	Helms	Roth
Byrd	Inouye	Rudman
Chiles	Johnston	Sarbanes
Cochran	Leahy	Sasser
Conrad	Matsunaga	Shelby
Cranston	Mikulski	Stafford
Daschle	Mitchell	Stennis
Dole	Murkowski	Stevens
Domenici	Nickles	Trible
Ford	Nunn	Warner
Fowler	Packwood	

NAYS—41

Armstrong	Graham	McConnell
Bond	Grassley	Melcher
Bradley	Heinz	Metzenbaum
Chafee	Hollings	Moynihan
Cohen	Humphrey	Pell
D'Amato	Karnes	Sanford
Danforth	Kassebaum	Simpson
DeConcini	Kasten	Specter
Dixon	Kennedy	Symms
Dodd	Kerry	Thurmond
Durenberger	Levin	Wallop
Evans	Lugar	Weicker
Exon	McCain	Wirth
Glenn	McClure	

NOT VOTING—6

Boren	Gore	Simon
Burdick	Lautenberg	Wilson

So the motion to lay on the table the amendment (No. 1258) was agreed to.

Mr. PRYOR. Mr. President, I move to table the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order. Those Senators who have business to conduct other than that before the Senate will please adjourn to the cloakroom.

AMENDMENT NO. 1259

(Purpose: To guarantee budget deficit reduction compliance)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BAUCUS, Mr. BIDEN, Mr. GORE, Mr. BUMPERS, Mr. CONRAD, Mr. D'AMATO, Mr. DODD, Mr. EVANS, Mr. EXON, Mr. HOLLINGS, Mr. LEVIN, Mr. SYMMS, and Mr. WEICKER, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself and others, proposes an amendment numbered 1259.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed later in the RECORD under Amendments Submitted.

Several Senators addressed the Chair.

Mr. BOREN. Mr. President, will the Senator yield to me for a brief statement?

Mrs. KASSEBAUM. I yield.

Mr. FOWLER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BOREN. Mr. President, I would like the record to show that I had a very strong interest in the last vote. I was in a room in the Intelligence Committee area where the bells did not go off. I was not informed that there was a vote in progress, and I arrived on the floor just as the vote was closed.

Had I been present, I would have voted for the motion to table the amendment. I would like the record to reflect my views and why I was not present.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, this amendment is offered as a substitute for the leadership agreement. It replaces that agreement with an across-the-board approach to deficit reduction.

We have all heard this debate many times, and I will be brief, because there are many who want to speak.

I feel that this is a window of opportunity for us in the U.S. Senate to show that indeed we can make a difference. It is an equitable approach to our deficit problems; it is one that will work. It is a balance that gives us the opportunity for 1 year to put things on hold, both on the spending side and the revenue side, so that in the future we may be better able to sort out the options and the choices we do have to make.

I think it is important to point out that with this particular package, we have a substantial saving in just 1 year of $41.3 billion. We have a total package of $41.3 billion; total spending savings of $25.1 billion; total revenue savings increase of $16.2 billion.

This is achieved by just freezing spending 1 year. The two exceptions are a 2-percent increase in COLA's on the entitlement programs with full funding on SSI and the full rise in exemption for standard deduction and personal exemption on the revenue side.

This, I believe, is a balance that works, and you will hear many other comments, but it is a significant savings. It is time that we do some real spending cuts and some real revenue to match that in order to help us during this difficult time.

I would like to yield for a moment to some Senators who I know have to leave for a brief period of time.

I am happy to yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, at the outset of the domestic summit, the Nation had great expectations of a bold, dramatic package of taxes and cuts. Everything was on the table. At long last, we seemed prepared to reach out and touch the untouchables of entitlements and COLA's.

However, 6 weeks later, we are back to square one, business as usual. The summiteers promised to scale the fiscal Alps. But their final product—the leadership amendment—looks more like a budget molehill.

Instead of fashioning a true fiscal solution, they confected yet another short-term political fix. The summiteers claimed reductions of $30 billion for 1988, but once you cut through the cotton candy of user fees, asset sales, and IRS initiatives, you are left—at best—with only some $20 billion in substantive deficit reductions. It is the umpteenth reprise of smoke and mirrors. And, not surprisingly—in the eyes of many Senators—the sequester is looking better and better all the time.

Apologists for the summit package insist it is the best we can do. They are wrong. We can and must do better. Today as never before—short of a sequester—our last, best hope for genuine budget reduction lies with the freeze proposal advanced by Senator KASSEBAUM, myself and others, and now supported by a bipartisan group of nearly two dozen Senators.

When I originally proposed a budget freeze in 1982, we began with 11 votes and ended up with 38. Since then, the original Hollings freeze has been echoed in a series of budget freeze proposals. In 1984, we had the KGB freeze, Kassebaum-Grassley-Biden-Baucus. Today—as our Nation's fiscal crisis deepens—we have returned to what is, in essence, the 1988 model Hollings freeze.

If I had my druthers, the freeze would take the following shape:

By freezing budget authority spending at 1987 levels for defense and nondefense discretionary, we would save $11.1 billion. By freezing—not cutting—COLA's at the 1987 levels plus freezing fiscal year 1988 reimbursement levels for services provided by doctors and hospitals at fiscal year 1987 levels, we would save $8.5 billion. By freezing the 1987 tax rates, we would save $17.2 billion. Debt service savings would be $1.4 billion. The total deficit reduction of this 1988 model Hollings freeze would be $38.2 billion in fiscal year 1988.

And lest that sound draconian or contractionary, let me make this point. Although my own freeze would save $21 billion, the baseline budget for 1988 would still grow by a whopping $45 billion.

Indeed, we could improve on this stripped-down Hollings freeze proposal by adding some bells and whistles from the summit package. For instance, the summit package includes an additional $1 billion in Medicare savings; $0.9 billion in Commodity Credit Corporation savings; and $9 billion in new revenues. If we take that $11 billion in deficit reduction and combine it with a budget freeze, we would generate a total deficit reduction of nearly $50 billion. At that point, you're finally talking about real money.

Shared sacrifice has been the hallmark of all my budget freeze proposals. The 1988 model Hollings freeze would be no exception. Unlike the summit package, it would not single out retirees or any other group. The freeze is simple—no gimmicks, no fudge. It is fair—its impact is across the board. And it is final—it gets the job done.

Yes, senior citizens would shoulder their share of cuts. But their cutbacks would take place in the context of across-the-board, evenly shared sacrifice. Seniors have always been willing to do their share—as long as they are not singled out for disproportionate or unfair treatment.

Mr. President, for weeks the summit conferees agonized as though they were giving birth to a porcupine. Instead, they produced a mouse—a stillborn mouse.

The summit package has been scoffed at by the financial markets. Its own authors have damned it with faint praise. It has failed to rally a committed majority in the Congress. The time has come to break the logjam with a single, decisive stroke. The 1988 model Hollings freeze—or its kindred spirit, the Kassebaum freeze—is an idea whose time has come.

Mr. President, I commend our distinguished colleague for her leadership, persistence and perseverance. Others like Senators BIDEN and BAUCUS and all of us have been in the vanguard of the budget freeze.

For years now, Senators have clung to the pipedream that we would grow our way out of our deficits. In the process, we have indulged in a whole bag of tricks. The leadership conference alternative offers numerous cases in point. For instance, it assumes an inflation rate of 4.2 percent, and from that inflated amount they extrapolate that they have cut $19.2 billion, and they give themselves a good Government award for cutting spending by $19.2 billion and raising taxes by $11.0 billion for a total savings of $30.2 billion.

So I have to take reluctant exception with my leadership. They have worked hard, but when they say if we do not pass the leadership alternative we face the specter of sequester, it is exactly this prospect that I have a mind in supporting the Kassebaum freeze proposal. We need a constructive, viable alternative that will get the job done. I repeat, the budget freeze is an idea whose time has come.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. I am happy to yield time to the Senator from Delaware.

Mr. BIDEN. I will not take that much time. I thank my colleague from Kansas.

Before my friend from South Carolina leaves the floor, let me say what all of us know which is that he is the great granddaddy, the granddaddy, the father and the son of this notion of the freeze. He was talking about the freeze long before any of us, including the Senator from Delaware, and I am just sorry we did not heed his advice 7 years ago, 6 years ago, 5 years ago, but maybe we will do it now.

Mr. President, there is an economic crisis that is obvious in this country. We have to act wisely if we are going to avoid its worst consequences. It is my hope that before the Senate completes action on this bill we will have taken at least one small step.

The foundations of our economy have been weakened by years of excess. The full extent of our economic problems are, quite frankly, notwithstanding what happened on Wall Street, not yet visible, but the financial markets have tried to warn us. The litany of our problems is not new. We have been talking about the problems for years. Therein lies our first problem: We have talked rather than acted.

We have failed to devise long-term solutions to our budget deficit problems.

We have not acted to improve productivity, to increase our competitiveness in ways that can help our trade situation.

We have not reduced the deficit, but we have in fact been reducing support for education, job training, civilian research and development, infrastructure and the like, and our deficit reduction efforts have sometimes been part of the problem rather than part of the solution of reducing the deficit.

We have done nothing to reduce our dependence on foreign capital. While we have talked of increasing savings, the fact has been greater consumption. We have failed to slow the growth of business, consumer, and government debt.

Today, here on the Senate floor, there is little evidence that we are even laying plans to deal with these problems, not only today but in the future.

The budget summit negotiations to reduce the budget deficit were, as have been stated by many today, good-faith negotiations. The negotiators worked hard to achieve deficit reduction. Their proposals will, in fact, reduce deficits by $33.7 billion in fiscal year

1988, if everything turns out to be correct. Estimates are that the deficit will be decreased from a potential $179.9 billion in fiscal year 1988 to about $146 billion. That is perhaps a good start. But unfortunately it does not even get us to the point where we were supposed to be at the end of the fiscal year just finished, which was $144 billion.

What is more, the leadership proposal before us is not a plan. It is not a road map to lower deficits and a stronger economy. Instead, it is a compilation of many unrelated actions, some of which will have long-term benefits for deficit reduction, others of which may even be counterproductive to long-term deficit reduction.

I am here tonight to propose an alternative again with my friend from Kansas. It is a freeze of Federal spending and a freeze of the Federal Tax Code for both individuals and corporations. It is an effort to combine real deficit reduction, of greater magnitude than that proposed by the so-called leadership proposal, with the time to develop a rational economic plan for our country which is lacking now.

My support of the freeze proposal is not intended in any way to denigrate the efforts made by participants in the summit. In fact, it is a wonder that they were able to arrive at any agreement. They had the difficult task of reconciling the divergent views of Republicans and Democrats, conservatives and liberals, executive and legislative branches, and every other cat and dog that could be dragged into that room.

But I do believe that the freeze is a better way to meet the immediate need for deficit reduction. It approaches the problem from a different perspective. It seeks to develop a plan that will suit the American people, not just a few negotiators and some special interests. The sequester has been in effect since November 20. It will not be possible for much longer to call it off. Yet it is urgent that we find a better alternative than the summit proposal that has been offered to us.

Let me just briefly describe the proposal for my colleagues here on the floor or listening in their offices.

This proposal freezes spending and taxes for fiscal year 1988 at fiscal year 1987 levels. We are going to be saying to the American people who expect an additional tax break, not more taxes, but an additional tax break, "You've got to hold off a year," and to everyone who expects more in terms of direct spending by the Federal Government, "You've got to hold off a year, everybody hold a year, because we had a serious problem."

The result of adopting our proposal will be to reduce the deficit by $43.3 billion in fiscal year 1988, from a potential $179.9 billion to $136.6 billion. Even though it is only a 1-year freeze, it will achieve a similar level of over $40 billion in the next fiscal year, 1989.

It will save $16.8 billion by freezing spending.

Defense appropriations will be frozen, saving $6.4 billion in fiscal year 1988, followed by another $9.7 billion in fiscal year 1989.

Domestic appropriations will be frozen, saving $4.7 billion and $6.5 billion respectively.

Federal pay, including congressional salaries, would be frozen.

Cost-of-living increases [COLA's] for all indexed programs, including Social Security, would be frozen at 2 percent. It is a 2-percent increase. So we are not talking about taking away money from people. We are talking about limiting the increase that people have. This will save $3.8 billion in fiscal year 1988 and more in fiscal year 1989, even though COLA's will be capped for only 1 year. Supplemental Security Income, upon which many elderly poor rely, will not be frozen at all. The full increase will go forward.

Medicare payments to doctors and hospitals will be frozen, saving $1.3 billion and $2.2 billion respectively, without reducing service to the elderly.

The freeze will increase revenues by $16.2 billion in fiscal year 1988. This will bring in increased revenues of $16.2 billion in fiscal year 1988 and $7.7 billion in fiscal year 1989. This is accomplished by freezing all of the provisions of the Tax Code for 1 year. Rates for both individuals and corporations will be the same in 1988 as they were in 1987.

We are not taking away anything given. We are just delaying for 1 year going to the next step.

However, for individuals, the scheduled increases in the personal exemption and the standard deduction will not be frozen. That will go forward.

So I say to all my fellow Americans listening that middle-income Americans, average Americans, will, in fact, continue to get some of the benefit of the next stage of the Tax Code's implementation.

The freeze also incorporates several noncontroversial savings from the leadership proposal that save $9.8 billion. There are also savings of $1.6 billion in interest payments due to just the action we would be taking in lowering the deficit.

Think of that. What we are talking about here today if we adopt the freeze, merely by adopting the freeze, we will save $1.6 billion in interest.

We argue on this floor about legislation to increase education or 100 other things I can name by several hundred million dollars and we fight over it and talk about the budget consequences. We would save over a billion and a half dollars in interest if we just adopted this plan.

The freeze offers a number of advantages for the difficult situation in which we find ourselves.

Originally the freeze was proposed by us to urge the budget summit negotiators to move to a widely acceptable approach like the freeze. Actually, something like the freeze was considered from time to time in the bipartisan budget negotiations.

The freeze will spread the effects of deficit reduction fairly among all beneficiaries of Federal programs. It is an equitable approach, asking all to bear a small piece of the burden which belongs to us all. I believe that all Americans are willing to share in that burden to get our economy under control as long as they know everybody else is in the same boat.

In that connection, Mr. President, I would call to the attention of my colleagues a letter from Cathy Reynolds, the president of the League of Cities, to my distinguished colleague from Kansas. She supports this freeze, calling it a proposal for "balanced deficit reduction." The elected officials of our cities and towns are the officials nearest the people, and I welcome this evidence of their support. I will ask that the full letter be printed at the end of my remarks.

The freeze will provide more real deficit reduction in fiscal year 1988 than the summit—$33.7 billion for the summit versus 43.3 billion for the freeze. This will provide greater assurance of congressional intention to deal effectively with deficits.

Even though the freeze offers greater reductions in deficits, in the long run it will also offer greater protection to those who benefit—whether through the tax system or direct spending—from Federal programs. The leadership proposal is an open invitation to more haphazard spending reductions and tax increases in future years which may seriously hurt some people on a selective basis.

The equity of the proposal is clear. There is an even split between increased taxes ($16.2 billion) and real spending cuts ($16.2 billion.) It reduces both defense ($6.4 billion) and non-defense ($4.7 billion) appropriations by significant but not damaging amounts

It would keep deficits on a downward track, while allowing time to develop further deficit reduction measures that can strengthen our economy. This is perhaps the greatest strength of the freeze. It allows us time to adopt measures that will help to stimulate saving. It will permit us to seek better ways to encourage investment and increase productivity. In other words, it will put in place a major deficit reduction measure that does not prejudice future actions. It will allow rational consideration of deficit reduction rather than relying on marathon negotiations as the Christmas holidays

approach—always a poor way to make policy.

In 1984, in a similarly difficult situation, I joined Senator KASSEBAUM and others—at the time it was Senators KASSEBAUM, GRASSLEY and BAUCUS—in proposing a freeze, to put deficits on a downward path while Congress devised further deficit reduction measures. The savings from the 1984 freeze would have been $45 billion in fiscal year 1985. The 1984 freeze would have resulted in declining deficits in 1985 and 1986—estimated then at $161.5 in fiscal year 1985 and $148.5 billion in fiscal year 1986. My colleagues will note that we would then have been in fiscal year 1986 just about where the leadership proposal promises to take us if we adopt their package now. So, I hope we will not make the same mistake again.

In 1984 the Congress chose not to adopt a freeze. The result was record high deficits in the next two fiscal years of $212 billion and $221 billion.

The freeze that we are offering today is basically similar to the one that we proposed in 1984, with mild modifications. It is clear in retrospect that we could have had a head start on deficit reduction had we adopted it then. This proposal today can work as well as the 1984 proposal would have worked.

I urge my colleagues to join us in seeing the light.

Quite frankly, Mr. President, it seems to me that the only way in which we are going to gain control of these deficits is to say: "Stop everything where it is now," guaranteeing significant savings that exceed the leadership package for the next 2 years and, in the meantime, get about the business of reordering the budgetary priorities in this Congress.

I thank my colleagues for their indulgence.

I ask unanimous consent that the letter of support from the National League of Cities dated December 9, 1987, to which I referred, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, DC, December 9, 1987.

Hon. NANCY KASSEBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR KASSEBAUM: I am writing on behalf of the public elected officials of the nation's cities and towns to support the reconciliation freeze amendment you and your colleagues have authored as a substitute to either the Gramm-Rudman sequester or the so-called summit agreement.

We believe that this is the only substantive proposal pending which would call for balanced deficit reduction, rather than calling for disproportionate cuts in a minority of federal programs. More importantly, it substitutes a proposal for which—unlike under Gramm-Rudman—the Congress would be accountable, but which would achieve meaningful and substantial reductions in the federal deficit.

Our membership believes that serious federal deficit reduction requires careful scrutiny of all federal expenditures. We are concerned at those proposals which would automatically excempt the majority of federal expenditures. The exemptions from scrutiny or sequester have become so great that what is left is insufficient to achieve a balanced budget and would, in any case, lead to grave disinvestment in programs which provide essential services to the citizens of this country.

We are impressed and particularly commend your proposed freeze of federal tax rates as well as spending. Our members do not understand how this nation can afford to cut federal tax rates at a time of record federal deficits.

While I recognize the overwhelming odds you confront, I am impressed with the courage of your convictions and wish you the best in your efforts.

With best regards,

CATHY REYNOLDS,
President, Councilmember-at-Large

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FOWLER. Mr. President, I yield 5 minutes to the Senator from Texas, Mr. BENTSEN.

The PRESIDING OFFICER. The Senator from Georgia yields 5 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, we have been through this process time and time again. We had at least 20 different proposals that we tried in that budget summit and much of it was input from Members. We tried several mutations of the COLA's to try to accomplish this. Finally, we decided we could not get enough support for that, and that it would sink the whole package.

We came back to our individual caucuses, and in each instance, we were turned down on proposals that would have been a deferral or a freeze for a period of time.

Now, let me tell you what has happened to us. Let us look at some of the practical problems.

If you go this way, you are going to find a substantial segment of our population will be affected by it. This Kassebaum amendment would put a 2-percent ceiling on Social Security cost-of-living increases.

Here is the problem with it at this time: It is simply going to be too late to try to bring it about. It would be extremely difficult to implement. Most of the checks are already printed with a 4.2-percent increase included. They are due to be delivered in just 3 weeks.

The Social Security Administration has said to us that these checks can either go forward or they can be stopped. They cannot be changed. Checks could possibly be sent out at the old December rates. If that were done, then the checks would have to be late. I do not think that the Senate can support a provision which will make the January Social Security checks for some 40 million Americans arrive several weeks late.

The other option is to pay the checks with the increase and then implement the lower rates later in the year. According to SSA, it would take at least 2 or 3 months to reprogram the computers to reduce the COLA to 2 percent. We would then be in the position of cutting benefits after beneficiaries have already accustomed themselves to the higher rates. Of course, the projected savings would then only be partially achieved.

In short, we would be, at this time, wreaking havoc on the people who depend on Social Security benefits.

Mr. President, this is not a time to cast a vote just to make us feel good. This is a time for a vote that will do some good. A vote today for this proposed freeze amendment would do no good and potentially would do a lot of mischief.

I simply ask my colleagues to consider what happens to the deficit reduction process if the pending amendment passes. I will tell you what happens to it. It will stop dead in its tracks. There is no way this is going to pass the House of Representatives. We can go into those conference negotiations and stay in those negotiations and try to convince them, and we will not prevail. We will come back here in disagreement and start the whole process over.

I promise you, we will be here for a long time and we will see the new year before this one passes the House of Representatives, and I urge that we vote against it.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas.

Mrs. KASSEBAUM. I would like to yield myself just about 1 minute to respond to the Senator from Texas regarding the COLA adjustment taking into account the concerns that he raised. I would just like to clarify for the RECORD that there is language in our bill that specifies the effective date does not take place until January 15, which answers the question of adjustment on the COLA's.

Mr. BENTSEN. I do not think it does take care of the situation. I still think you have a mechanical delay that is going to cause a very serious problem, from what I have been told by the Social Security people.

Mrs. KASSEBAUM. Mr. President, I would like to yield 5 minutes to the Senator from New York, Mr. D'AMATO.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. D'AMATO. Mr. President, I rise this evening to support the budget package and amendment submitted by Senator KASSEBAUM and to give credit where credit is due to Senators KASSEBAUM and HOLLINGS, who have been

advocating a budget freeze for a number of years now. They have done a marvelous job in articulating the flaws in the summit package, notwithstanding the effort made by those who have worked to put that package together.

Mr. President, to be quite candid, only in Washington can a $30.2 billion reduction package really mean $47 billion more in spending. It is incredible.

The summit package reduces the budget only after first adjusting for inflation, so we start with 1987 figures, we add 5 percent for inflation, then we come in with our cuts and what is the net result? The net result is a 1-percent increase in defense spending and a 4-percent increase in nondefense spending and we are back to the same old business. We go back to our districts and say yes, we are going to reduce the budgets and we are going to cut but do not cut my favorite program. We do not even have the courage to say: Let us freeze spending. And that is what this program does and it does it fairly and it does it with compassion and it does not do it with smoke and mirrors; across the board.

If we cannot stand up and go home to our constituents when we are in a critical time in this Nation, then shame on us. And maybe we should not be here.

And we have got the Social Security lobby. And we have got the Member of Congress over on the other side, CLAUDE PEPPER, who gets up, and Jimmy Roosevelt who sends out the letters and tells them we are going to disembowel them, we are going to take your services away, we are going to hurt you. That is just not the case. We allow for a 2-percent increase as it relates to that important program; a 2-percent increase where the COLA is affected and a 4-percent increase as it relates to those who are without. Those who are on disability, the SSI.

It is straightforward. It is honest. And it saves over $80 billion in 2 years. Real savings.

If you are going to have any hope of getting the markets to respond in a positive way to what we are doing, then let us be mature, let us be honest, let us be factual. That is what this proposal does.

I just say one other thing. To those people down on Pennsylvania Avenue, and to those who have great pride of authorship as it relates to the tax provisions and code that was passed last year, for God's sake wake up. Do not rest on pride of authorship.

Oh, yes, so your tax provisions may be altered slightly. We are going to freeze the Tax Code for 1 year. But let the RECORD show that 88 percent of the American public who pays taxes will actually pay lower taxes as a result of this plan, if it is enacted; 88 percent. Virtually everyone earning $50,000 and under.

Mr. President, I spoke to a number of people, rather affluent, wealthy: stock brokers, corporate leaders. I said, if you had a package that really cut spending, that would be significant, and I explained this package that would reduce spending, would you go along with a 1-year freeze as it related to the tax package? They said yes.

It may be that Senator BENTSEN is right. Maybe our House colleagues will resist it. But by God we owe it to the American people to attempt to come forward with a meaningful plan. Let us get it begun.

There will be those who say we have broken faith with the public because we came forth with a tax proposal that reduced the top tax from 38 to 28 percent and we would withhold that for 1 year under this plan. But the fact is that 88 percent of all individuals would experience no increase in taxes or actually get a tax cut. Almost uniformly, taxpayers under $50,000 would get a tax cut.

The reason is because we would allow the standard deductions that were provided for in the code of 1986 to continue to go up, exemptions would go from $1,900 to $1,950, and the standard deduction would increase from $3,670 to $5,000.

Mr. President, let me simply say I did not put this package together. Senator KASSEBAUM did. And she had the courage to move forward and to articulate it and to attempt to galvanize people. This is something Senator HOLLINGS has spoken about. I think the leadership should begin sometimes to wake up and look at what the Members really want instead of holding in the Members; because of that power of leadership, act in a very positive manner in saying let us give the best proposal an opportunity at passage so that we can truly say that we have come together to do the business of the people.

By God, when we have come to this Senate, that important, distinguished body, we do it a great disservice if we fail to go forward and meet the courage of our convictions and continue to play petty politics.

I commend, again, the Senator for having the courage to move forward in the face of very strong, unified opposition.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Kansas.

Mrs. KASSEBAUM. I would like to yield time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. EVANS. Thank you, Mr. President.

Let me first, as my colleagues have done, congratulate the leadership for the long and extended negotiations they went through to come forward with a package. Far better that we have a package in front of us than no package at all. Far better that we have brought forward what this Senator at least believes is an incomplete and inadequate package than be staring at sequestration as the only alternative in front of us.

But having said that, Mr. President, now it is our turn. The leadership, as they have said, have done the best they can. And I congratulate them for having done that. But now it turns to us, all Members of the Senate. It is up to us to do the best we can and, frankly, I, for one, do not want to be counted among those who are captured by temporary timidity or who could be fairly accused of creeping cowardice.

Mr. President, too much of what we face in the difficulty of the program we are now presenting is what I would call a self-fulfilling prophecy. Let me describe to you conversations I have had in the course of the last week. One conversation with a very senior White House official who said candidly: Your package is a better package than the one agreed to by the leadership and the administration. It clearly would be better for the country. But, it simply cannot pass. And so, therefore, we ought not to adopt it.

I have talked to some of my fellow colleagues who are up for reelection. They say: Your package is the best package for the country and one we ought to endorse, but my advisers tell me that it is dangerous politically if it does not have a chance of passage. And so the self-fulfilling prophecy picks up steam.

We are told by the leadership in the House on both sides that there are not anywhere near enough votes in the House to bring this forward and so, therefore, we ought not to pass it no matter how good it might be, theoretically.

So the self-fulfilling prophecy gathers further steam.

Mr. President, I have talked to a good many House Members. They do not tell me the same story. They say there is a lot of support out there among the membership, just as there is among this membership.

There are some others in this body who say, "Well, I am with you on a spending freeze, but I do not like to delay that tax reform package for 1 more year, and, therefore, I cannot vote for the package." And so the self-fulfilling prophecy gains more steam.

Mr. President, I think it is time for us to quit worrying about self-fulfilling prophecies. It is time for us to take bold action. I am certain that if this Senate were to adopt this package and pass it and send it to the House of Representatives, there is a very good chance indeed that the House of Representatives would respond positively.

I can guarantee you, Mr. President, that no matter what is said now, I cannot conceive that if a Senate and a House sent a package like this to the President accompanied by an ebullient and rising market, by editorials praising it, which I am confident would come from all over the country, that the President in the face of that would turn it down.

Mr. President, bold action is necessary.

Let me describe very briefly two scenarios. I fear they are the two scenarios which face this Nation over the next year.

One, insufficient response. I would call the leadership package insufficient response. I believe with all my heart that it will lead not to a falling but a raising deficit; that it will have a dampening effect on the economy, and we will see further shudders in the financial markets and the resulting shudders throughout our economy.

We will be faced, believe me, with an emergency next spring, and we will be back revisiting this same issue as we begin to deal with the budget for fiscal year 1989.

We will be facing bigger deficits which inevitably lead to higher interest rates, the only way we can attract enough money from here and overseas to finance that larger deficit. Just as inevitably we have higher interest rates, we will have higher inflation.

What good does that do to an elderly citizen trying to exist on Social Security who cheers when the full 4.6 percent cost-of-living allowance comes into their retirement check to find that a year later inflation is rolling along in double-digit figures? Have they gained anything?

What good is it for a taxpayer to get a tax cut now through the tax reform package only to find a year from now that the economy has stumbled so badly that their investments, their background, their future, their jobs, are all in jeopardy?

No, Mr. President, I do not think that is the scenario this Senate ought to buy.

There is a different one. It is for us to be bold enough to catch up with the rest of the American people, the American people who I am confident are willing to do as my colleagues have said earlier. That is to engage in a 1-year "hold it" package to make sure that we all recover economic strength and security.

Let us opt for a big and a bold, even-handed package, created through an ebullient economy, and in doing so lower not raise inflation rates, in doing so have a smaller not a larger deficit to finance, in doing so recreate some confidence within the international financial community and among our trading partners. It is a better end result for those same retirees and those same taxpayers to take the small freeze now. A year from now they will unquestionably in my mind be better off.

Let us talk about a freeze a little bit compared with the leadership package.

The leadership package will increase current taxes on taxpayers by about $11 billion. We will ask everyone who uses a telephone, and I know of few people in this country who do not, to pay more to use the telephone, whether rich or poor. There will be other what some would call nuisance taxes or sin taxes. But, nonetheless, they are tax increases.

The proposal we suggest has no tax increases in it. It merely says, "Wait a year to get further tax cuts."

If we do not do that, if we adopt the leadership package, let me tell you what will happen.

For the second year of the tax reform, I endorse it and believe that a year from now it ought to be implemented as part of the total tax reform package. But between the time we passed tax reform and today we have had October 19 and the successive days in which the market has shown us very clearly that we better do something better than we are about to do.

Let me tell you what will happen.

We will be asking citizens for new taxes. We will be forcing such cuts on a narrow focus of our citizenry. We will be saying to some, "Get your full cost-of-living allowances," but we will be saying to taxpayers through the second year of tax reform, those at the lower end of the tax brackets, from zero to $10,000, $10,000 to $20,000, clear up to $50,000 of income, most of the taxpayers of this Nation, "You are going to pay more in the way of taxes because that is the working of the second year of tax reform."

But, oh, yes, there are tax cuts, and they are for those from $50,000 and up, and they are most particularly for those taxpayers, if you can believe it, with incomes of $200,000 a year or more who will receive a tax cut of $8.7 billion, all of that in the face of this leadership package asking people to pay more for their telephone bills, to pay more in a wide scattering of what some would call luxury or sin taxes.

Mr. President, under the circumstances now existing, that is simply unfair.

As an alternative, the freeze would say, "Next year we will hold it. Nobody will pay any more than they are paying today in tax year 1987."

In fact, all taxpayers will pay a little less because in this package we will allow standard deductions and standard exemptions to rise, thus lowering the tax burden.

Mr. President, those who are concerned that if we delay this tax reform transition by a year they will never get it, I am prepared to add a proposal to this, if we adopt this package, that I think will handle this program. It would require that in order to further modify or further delay the transition period, we would have to go through a procedure much like the Budget Act that would require a 60-vote waiver, which I think is good protection indeed.

Mr. President, we have heard from the distinguished chairman of the Finance Committee that it is too late; Social Security checks are already being prepared; that we cannot provide any change.

Mr. President, I simply reject out of hand that as an argument against this package. We have waited for the literal 40 days and 40 nights of this negotiating committee to finish their work, for them to say after this extended period, "We have acted but we have taken so much time that now you are prevented from an alternative action."

That is not fair either, and it is not necessary. The Senator from Kansas [Mrs. KASSEBAUM] has already spoken on the effectiveness date we have provided, but more importantly, if we are able to adopt this amendment, Mr. President, it is time for the Social Security and other administrations to take another look to decide just how they can work overtime if necessary and accomplish what we then would be on our way to requiring.

Mr. President, this can be achieved. It can be achieved realistically. We are being asked in a short period of time, in just a few hours really, to adopt this, almost 800 pages of change. That contrasts, Mr. President, with the proposal we are making to substitute for it—a thin, simple, easily understood, doable package.

There is some real question as to whether that whole 800 pages will really accomplish what we are trying to accomplish. There is no question that a simple freeze which we have included in here and a simple delay of 1 year in the tax cut provisions of the Tax Reform Act will be carried out and we will gain all of the budget cuts we have suggested.

We are asking for one thing, and that is a simple sacrifice of all Americans for 1 years, evenly spread on both those who receive benefits and those who pay taxes. It is a 1-year sacrifice. And to what end? The end is to gain the second scenario I pointed out, to save for ourselves a better economy and a better future, to give ourselves a chance to recover from the trade deficits which now plague us. And the alternative of acting timidly, maybe even cowardly, to not be willing to face up to some difficult votes I fear is going to lead us down the wrong path.

Are we unwilling? Well, as Americans I do not think we are unwilling. I think they are way ahead of us. We might be unwilling as Senators, but the citizens out there, I am convinced,

faced with these two alternatives and clearly explained to them, would opt overwhelmingly for the amendment now before you.

Our people very often are ahead of us. In this case, I am confident they are ahead of us. It is time for us to catch up, and the best, simplest, most straightforward way for this Senate and ultimately this Congress to catch up is to take the bold and I think rather courageous action necessary to pass the amendment sponsored by the distinguished Senator from Kansas and many of us who joined her in this effort.

Mr. CHILES and Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. CHILES. Mr. President, I yield myself such time as I might need.

Mr. President, I start out by complimenting the Senator from Kansas and her cosponsors for proposing this amendment. I know it is done with a great sense of feeling that this is the right thing to do. I know that it is also done with a great deal of courage. I am delighted to see that kind of courage in the Senate. I know that the Senator from Kansas has often displayed that, and I know it has a lot of sincere sponsorship. It has some features of fairness that are attractive to all of us because it seems to balance off the sacrifice that it is calling for on the freeze side with a freeze on the tax rate.

I think that we need to examine it closely though, and I think we need to look at the situation in which we find ourselves in light of the economy. And as one of those who had to spend that 40 days and 40 nights that has been talked about—and it seemed to me it was an awful lot longer than that—in the budget summit, I can tell you it was an incredibly long time and we did explore many, many alternatives in an attempt to see what we could do.

It is interesting because I hear it said, "Let's just take this action. We don't care what the House will do. The House will maybe go along, there will be an outpouring of support for this. The President will go along because there will be an outpouring of support," and yet let us recall where we find ourselves now. We find ourselves with sequester in effect. It is not a question of going into effect. It is already happening. Some withholding is taking place. Some is not being felt because the agencies have a little money on hand and are able to stave it off for a period of time. But we know that, again, whatever action we take is going to be taken in a very short period of time. It is going to be taken between now and the next several weeks or the full force of that sequester will be in effect. And we also know that the markets which are incredibly fragile are watching the actions we take.

Now, the Senator from Florida is not going to be one to say that the leadership package is all that I thought it should be, all that I thought the situation demanded, all that the economy needs. It is none of those things. But having said that, it has been out there for a while. The market has looked at it, you might say, and while maybe it has not buoyed up the market, at the same time the market has not collapsed in the face of it. There has been some kind of feeling of can they pass this, can this happen, can they get this done? And we see other factors now seem to be affecting the market.

I noticed for a few days every time anything happened in the market, the writers would say they thought the package was not good enough.

I do not read that anymore. It is important for whatever reason they think. And we know, of course, Wall Street wanted more, and whatever we had done they would have wanted more because regardless of what they have done before to bring the market into such a bad situation, they now want to say it is up to Washington to bail them out.

But in the summit we did not ask the administration people one time; we asked them time, after time, after time, "Is there a possibility of getting the President to go along with some delay on the tax provisions?" And we got the answer back repeatedly, "No, no, no. This is the cornerstone of the President's whole policy. He will not deviate from that." We went back one time and said, "What about 3 months on just the top portion, just the 33 percent to the 28 percent, what about 3 months on that?" Exactly the same answer, just as adamant, just as strong. We were told that that was impossible to do.

Now, of course, we saw also what would happen every time something would be said about COLA's, and it is interesting because in many instances the Republican Members of the House were the ones who said, "No, no, no," to consideration about that. And at times there were others, of course, who joined in. Never, of course, was that officially put on our table, but it certainly was discussed, as everyone knows, and every combination of it was discussed to see whether it was possible to put together some combination of that, and again it never was possible so that the White House would go along with it or so it looked like there was any opportunity to do that.

Now I want to look at the package itself just for a minute. I tried to say a lot of good things about the structure and all. But now when I look at this package I think what I would be looking at if I were an analyst is not just what happens in 1 year but what happens in year 1, year 2, year 3, year 4, and looking into the outyears. When I compare the packages with this mouse that people have tried to call the package that we have before us, and I look at this tiger, I am not sure that this tiger has the teeth that we are trying to attribute to it. It appears to me that it is a 1-year tiger, or sort of a paper tiger.

Where do the savings come from? The savings, it is interesting, come from the Social Security freeze and the Medicare cuts. So we are taking all the savings out of the seniors, and we are saying that is all right. It is fair to you. But do not look at any of the other entitlement programs.

I do not find any savings out of the entitlement programs. I do not see anything coming out of agriculture, farms. I do not see any savings coming out of there. I do not see anything coming out of student loans. I do not see anything coming out. All I see is Medicare, Social Security; we will just take it in that kind of place. And we will say it is good for us because we are going to help the economy.

You know, if you can make that kind of argument and the Senator from Florida has had a proposal in which several years ago I floated it and went down in my State, discussed with my seniors, and basically felt like maybe it would have been a disaster if it passed, but I felt like I could offer it and I did offer it at times. It called for a freeze on Social Security, for a year freeze on Social Security, it also called for some new taxes, and it balanced them off similar to what we are looking at here.

But the taxes were real. And the taxes were going to be something that would continue. Here the freeze on the taxes is 1 year, and then it is over. And the Senator from Washington said he is going to put something in there if it passes so it takes 60 votes to try to do anything in the future on those taxes.

But that COLA cut keeps cutting. It cuts and cuts. It sort of keeps cutting, but the tax cut does not. Again, I look at agriculture. And I look at these people that have this great courage that have proposed this freeze. I do not see any cuts in agriculture. I do not see any cuts across there.

It seems like to me if we are going to say you are going to hold up building post offices or you are only going to build 25 percent of them for a period of time, that takes a little courage. Everybody has some post offices. I sure have some around and I think everybody else does. But I do not see any cuts like this.

Again, and the point that I really want to make is, weigh these packages together and compare them. And we have some comparison sheets that are set out. You will see in year 1, the Kassebaum package has more savings.

It has more savings like $40 something billion to $30 billion in the first year. But then if you look at every year after that, beginning in year 2, and look in the outyears, then you see that the leadership package saves much more and continues to save more in the outyears. And I believe that if I was that analyst on Wall Street I would be looking at one that is writing into permanent law, savings that are going to continue, spending cuts and revenues that are going to continue. And I would look in the other and I would see some that are not.

The defense and domestic appropriation ceilings are only for 1988. Yet, in the leadership package, they are for 2 years. They continue. So while as I say it is $44 billion to $37 billion in the second year, from then on the revenues that are in the leadership package—because they continue and the spending cuts because they are more permanent and they continue—and the savings will be greater.

So given the fact that not only does it have the opportunity of passage, and that it is blessed by the leadership of the White House and the House and the Senate, and certainly that I think is a major reason understanding what we are about here and trying to pass something, but in addition to that weighing the packages themselves. If you are looking at the long haul, if you are studying this, what is structurally really being done is to say we are going to sort of reverse the way we are doing business, we are going to start this deficit going the other way, and weighing on that basis then I think the leadership package is a better package.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. I yield 10 minutes to the Senator from Nebraska.

Mr. DOMENICI. I wonder if I might follow the Senator from Florida for a few minutes.

Mr. CHILES. I will be happy to yield such time as he needs.

Mr. DOMENICI. Ten minutes. I will try to keep my remarks to 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Senator, the chairman of the committee, for yielding.

I, too, want to offer my congratulations to those who have put this freeze package together. I guess I was almost going to say so-called freeze and I am because I think this freeze is somewhat of a misnomer. We ought to make sure everybody understands what it is. But I want to commend you for taking on some very difficult issues. Obviously, you have addressed the automatic cost-of-living increase for the pension programs, including Social Security, and you have raised some revenues with the freeze in the Tax Code. But I guess what I really must share with you as much as I admire you and have respect for you, and all those who have spoken out for this very powerful tiger that is supposed to be up against this mouse, I regret to tell you that I am not at all sure that if your goal and objective is to send a strong signal to someone, I assume the marketplace of America, Wall Street, the business community, you will want to send them a very strong signal that your amendment is going to get the deficit under control and the leadership package is not.

Well, I regret to tell you that I agree 100 percent with my friend, the chairman of the committee. Let me give you a couple of numbers for Senators who are disposed to vote for the tiger over the mouse. Using as good of an analysis as I am capable of, if everything happens as you all plan it in your package, and I will tell you in a little while that you are gambling on some of your package's things happening, your package will save $82 billion over 2 years. And the mouse will save $79.9 billion. Will you permit me to round the leadership package's total and call it $80 billion; $82.8 billion versus $80 billion. I do not really believe we should categorize the two packages as one being a big tiger and the other a little mouse if those are the numbers.

Those are the numbers. As a matter of fact, the tax policy that is carried out in this so-called freeze, in this Senator's opinion—aside from tinkering with the tax reform package, which I do not believe you will ever get signed into law, and I think that might be reason enough not to proceed with it, but let us just assume that you could overwhelm the President and he would sign it—moves in the wrong direction. It increases the tax base in 1988 substantially, and then it increases the tax base almost none the next year. You have a 1-year freeze and then nothing.

The Finance Committee, following the direction of the summit, moves in the right direction—a little over $9 billion of revenues in the first year and $14 billion in the second year—for a total of $23 billion which will reoccur in later years. As a matter of fact, it will grow.

Your package moves in the wrong direction; absolutely the wrong direction. We will have to come back next year and raise taxes again to pick up the taxes that are not in your package. There is $14 billion in this one. Including cost-of-living indexes, if the distinguished chairman is correct, there is $10 billion of savings in this package from 2-percent cost-of-living increases instead of the 4.2 or 4.4 percent the pensioners are entitled to. Further, the chairman of the Finance Committee says you cannot even recoup all of the estimated savings from your 2-percent increases. It is too late. The checks are already printed and you will either send a Social Security check with a COLA in it or you will send them none, or you will be in February and March trying to collect back from seniors across the country what you paid them by mistake because you cannot get the change to 2-percent increases done in time. That is an entitlement program. We are cutting the structural deficit by cutting entitlements.

If my numbers are right, under my definition of entitlements, the leadership package has $13.6 billion in entitlements over the 2 years. The package that is here labeled a tiger has $15 billion, $10 billion of which is from the cost-of-living indexes.

What happened to the rest of the entitlements—agriculture; Medicare; student loans; post office savings such as transferring, as we should, the costs of postal pensions to the Postal Service; and the other entitlement savings that are in the leadership amendment?

It seems to me that unless one really wants to make a point that we ought to partially freeze the COLA's because we want to prove that we can do that, this package—with a 1-year episode of COLA reductions and a 1-year episode of freezing the tax reductions that are going to occur—is saying that regardless of what the tax revenue and entitlement savings, numbers say if you do those two things, there is something that makes it inherently better.

Frankly, I have said that we must address the entitlements sooner or later in America. I will say in passing that I believe the debate this year has finally reached the point where sooner rather than later the leadership of America will address the entitlement programs. This is not addressing them. There are more savings in the entitlements in the leadership package than in the substitute package, in the 2 years.

We have all grown accustomed to the fact that if you freeze the COLA's, you get the savings. But freezing COLA's alone does not get you the leadership package's savings when you change Medicare the way the Finance Committee changed it. In agriculture, you do not get the savings that the Agriculture Committee gets when it changes the agricultural program as it has done. You do not get the change in the student loan program where you are ordering every State to reduce its reserves, as is done in the leadership amendment.

Frankly, if you had a 2-year or 3-year plan that involved changing the entitlements and changing the taxes in this manner, you could call it a tiger and you could call the other one a mouse.

I do not think $82 billion versus $80 billion is all that much difference; and I think the tax policy reflected in the Finance Committee bill is better for a deficit reduction than a 1-year freeze in the Tax Code which has no recurring effect thereafter. Indeed, the finance tax provisions provide a recurring tax increase as prescribed by the summiteers.

I have the highest respect for those who offer this package. There is one other serious shortcoming in talking about real savings and a real package. I will speak to that shortcoming, and then I will sit down.

The package that the leadership offered has a budget authority and an outlay limitation on defense and a budget authority and an outlay limitation for the appropriated accounts, nondefense—both budget authority and outlays in 1988. For the first time in history, it also has the same limitations in the second year. The leadership package's 2 years of limitations will cause real outlay savings.

The substitute package has neither—it has outlay limitations in neither year—budget authority in defense and budget authority in appropriated accounts and no outlay limitations. That is a step backward from where we all wanted to go.

I apologize on the outlays. If you put it in a modification, it was not in the amendment.

I ask the prime sponsor: is there an outlay limitation in 1988?

Mrs. KASSEBAUM. No.

Mr. DOMENICI. In neither 1988 or 1989 do you have budget authority? So my statement is accurate.

I want to say in conclusion that if there were an enormous difference between these packages, perhaps an argument that we ought to gamble, which I think is being offered here, even though the President says no, we should gamble anyway; even though the summiteers said no. But I do not see this package, as I view it and as I analyze it, to be significantly better than the leadership package that is pending before us, which will become law, which will get signed by the President, and which, both in spirit and in substance, will be adopted in conference. That is how I see it.

Mr. EVANS. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I understand that the distinguished prime sponsor has a modification.

Mrs. KASSEBAUM. I just wish to correct for the RECORD that there is not a cap in 1988. There is in 1989.

Mr. DOMENICI. Budget authority or outlays?

Mr. EVANS. Both.

Mrs. KASSEBAUM. There is a budget authority cap in 1988 on both and neither in 1989.

Mr. DOMENICI. So I believe my remarks remain intact. I think my own analysis is correct.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. EVANS. Will the distinguished Senator from New Mexico yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. EVANS. Mr. President, to clear this up, I have the amendment in front of me, and I believe that for 1988 there is a limit on both budget authority and outlays for both domestic and military spending. But that is not the question.

The question is this: I presume that the distinguished Senator and ranking member of the Budget Committee endorses the folder which the Budget Committee has just sent out, dated December 10, 1987, revised program, which sets forth the two programs—the committee's program and the Kassebaum proposal—side by side. I encourage all my colleagues, incidentally, to read it. I think it is the very best argument for adopting the freeze. This is one prepared by the Senate Budget Committee, December 10, 1987, and is probably pretty new, since this is December 10. I commend it to the Senator from New Mexico because it says, in the Budget Committee's own figures, that the freeze in a 2-year period would total $87.5 billion. The freeze under the leadership agreement is $79.9 billion. That is a significant difference.

However, to go beyond, included in that are $23 billion of hard taxes, as compared with our proposal, which has $24 billion of hard taxes.

The most important thing I commend to the distinguished Senator from New Mexico and my colleagues is that there is indeed a difference. Take the 2 years—and I might say that I have been here only for a short time, but I have seldom seen us take the long-range view and do anything for much longer than a 1-year period. But, even assuming the 2 years, that proposal of $87.5 billion is almost 70 percent on the spending side.

The proposal of the administration and the leadership is smaller by almost $10 billion and it is less than 60 percent on the spending side. So it is a higher percentage of new taxes. I think the Senator is right in saying that the taxes that they propose would continue into the future. The taxes we propose would not continue into the future. But the very fact that we have created a lower base for spending means that the spending cuts will certainly continue into the future and in the long range I would say to my colleague from New Mexico does he not believe that it is infinitely better to have a long-range program with emphasis on spending cuts rather than on tax increases as a way of gaining the revenue necessary to close the budget deficit?

Mr. DOMENICI. I certainly do, I say to my good friend from Washington. But I regret to tell him that my analysis would indicate that the leadership package in the second year and the third year and the fourth year is significantly better that the outyear savings in the package offered by the Senator from Kansas, which the Senator is a cosponsor of, that is being credited with being so far superior. It is better in the first year.

Mr. EVANS. And the second.

Mr. DOMENICI. And in no year thereafter. I am looking for the long-term.

Mr. EVANS. I say to the Senator from New Mexico my admiration for him is second to none in the Senate, but I would also say to him that to conclude that we can even estimate what the situation will be and what the needs will be 3, 4, and 5 years out is simply beyond belief. We do that and we create a lot of figures and we write them down on our budgets, but the Senator from New Mexico knows and this Senator knows that we cannot predict the economy, we cannot predict income, we cannot predict interest rates, we cannot predict gross national product, we cannot predict unemployment for that long in advance. So we are really guessing when we get out that far.

I will just say finally to the Senator from New Mexico, I would far rather buy off on a good 2-year plan and in fact in the freeze it only takes 1 year to do the job and set the new base, a 2-year plan which emphasizes spending reductions rather than a 2-year plan which emphasizes to a much greater degree tax increases.

Mr. DOMENICI. Mr. President, I yield myself 1 minute.

Let me just say the Senator did not close by asking me a question.

Mr. EVANS. My question is whether the Senator does not agree it is better?

Mr. DOMENICI. I agree with the Senator's theory. It would be better to have more cuts and less taxes over the next 4 or 5 years, but I regret to tell him that I do not really believe he has produced a masterful deficit reduction package because he has done two things that we have not, frozen the tax schedule and cut Social Security and pensions by 2.3 percent. I do not think that just because he has done that it is inherently a better package. It might be, but when I look at it and compare the other entitlements and the taxes in the second, third, and fourth year and the other savings because of the caps, that all by itself does not make it that much a better package. As a matter of fact over 2 or 3 years it is not better than the leadership package.

Mr. EVANS. I say to my good friend from New Mexico, we could continue this, but there are others waiting. I will just say to my good friend that I would commend this summary of the Budget Committee on which he served for such a long time and with such distinction because I think that it really does the best job of proposing that the freeze is a better alternative than anything I have seen yet.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. I yield 10 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. EXON. I thank the Chair and my friend and colleague from the State of Kansas for proposing this measure of which I am a cosponsor.

Here stands the Senator from Nebraska once again trying to appeal to the Senate to be more realistic and fairer than they have been in the past, to see over the horizon, to take stock of where we have been and where we are going.

Where are we going right now? We just had a vote here within the last hour where an amendment of the Senator from Nebraska was turned down that would have closed a terribly unfair loophole in the tax bill and at the same time would have brought in $300 million more in the next 3 years, not insignificant, I say, when we are faced with the situation we are today. Where are we today? Here we are, about to pass this package, I assume. Because I suspect that when we got 41 votes for the amendment of the Senator from Nebraska a while ago that was strongly opposed by the leadership on both sides, we may indeed have reached our high watermark, those of us who think we should do more than the leadership package.

We are at this position today, Mr. President. The stock market has plunged 45 points. I suppose that is an indication of the enthusiasm that the stock market has for this package that we are about to introduce.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. EXON. I have been waiting a long time to talk and then I would suggest to my friend from Florida that he has ample time and I have limited time.

I yield.

Mr. CHILES. I only wanted to ask the Senator a question about the stock market. I wondered if it had anything to do with the market that the trade deficit went up about $11 billion to $15 billion, I believe, for this quarter?

Mr. EXON. I thank the Senator my friend from Florida, for interjecting his remarks.

The Senator from Nebraska was about in the next breath to move on to not only has the stock market dropped today by 45 points but also there was a new record set in the last month for the trade deficit, up about 25 percent.

That just further drives home the point that I am trying to make. At a time when the dollar is plunging like a rock like it has never plunged before, supposedly that was going to have a significant turnaround in our trade deficit and the exact opposite is happening.

I thought it was also interesting to note that one of the reasons that our trade deficit is further out of balance was a big surge in food imports—food imports of all things—from abroad into the United States, and we have a trade bill tied up over here that everybody is afraid to move on because we are going to be accused of being protectionists. I suggest it is time that we recognize that it is time to be live protectionists rather than to have a totally dead economy, and it is time we wake up and I think we have not been awakened from our slumbers with the leadership package.

Mr. President, I am pleased to be part of this bipartisan group of Senators who are proposing a freeze or fail policy, a true across-the-board freeze on Federal spending, a freeze on Federal tax policy and a 2-percent increase for recipients of Federal retirement benefits.

For years, going back as far as 1982, Senators HOLLINGS, myself, and some others have been promoting the freeze concept as the key to fiscal restraint. If our recommendations had been taken when first offered, the Nation would be well on its way toward a balanced budget and we would be deciding how to apply Federal budget surpluses to reduce the accumulated national debt which is skyrocketing at the same time.

We suggested this approach when the concept was unpopular. Then a spending freeze across-the-full-board budget would have solved our problems. Today, it is only the first step on a long journey of austerity. However, unless we take this modest step, our task will become increasingly difficult. We will soon be unable to talk of freezing budgets but will have no choice but to engage in wholesale eliminations of Federal programs and retirement benefits and massive tax increases to avert financial disaster. To put off the difficult decisions until there are no attractive alternatives would be a complete failure of political leadership and courage. I assure you the citizens of the Nation will not tolerate many more seasons of inaction.

We are going to continue to offer proposals that we feel are much more realistic and I suggest with the history of the past 6 or 7 years we can take some solace in the fact that we better take something more dramatic to do something more than we have done under the leadership package.

Today, we face a real choice: Freeze or fail.

The U.S. Congress, the President and the American people have fooled themselves long enough. The American economy has been drinking the champagne of supply-side economics to the point of intoxication. While our friendly "nothing to worry about" bartender of this supply-side economics filled our glasses with vintage "dawn in America," the economy was falling off its stool into a second rate status at the same time, and we have gone from the largest creditor to the largest debtor in the world.

On October 19, 1987, the economy ran out bubbles and the crash of the stock market was the first noticeable ache of our supply-side hangover. The Nation has awakened to find that since 1981, annual budget deficits have grown from $79 billion to a record $220 billion in 1986 and that the accumulated national debt has more than doubled from $931 billion in 1981 to over $2.4 trillion today. We are assured of it tripling in the 1980's. Our status as a world economic power has also been compromised more than most understand today. In 1981, the United States was the world's largest lending nation. Today, we are the world's largest borrowing nation. Each year since 1981, the United States set a new record trade deficit; in 1986 topping $168 billion, and it is going to be close to the $200 billion range at the end of this year. These dangerous trends were ignored due to the drunkenness of our supply-side euphoria.

During the hoopla of the supply-side celebration, I am certain that our small group of fiscal conservatives sounded like old sour grapes prohibitionists. We were preaching the gospel of deficit reduction. I remember in 1981, Senator BRADLEY and I offered an amendment to the Kemp-Roth tax bill to make the second and third year of the 1981 tax cut contingent on actual deficit reduction. In 1982 and 1983, Senators JOHNSTON, NUNN, and I offered alternative across-the-board deficit reduction budgets which would have balanced the budget in 5 years or less and in 1984 and 1985, Senators HOLLINGS, ANDREWS, and I offered our bipartisan freeze budgets.

Each year, we warned of the folly of our Nation's fiscal policy and predicted the inevitable day of reckoning. Instead of turning to discipline and restraint, the Congress and the President turned to another vice known as the Gramm-Rudman law. This procedure once again delayed action and made reality a more difficult thing to face. Today we must sober up the economy with serious and meaningful action.

Mr. President, I had proposed my own deficit reduction plan and many of its key elements are contained in

the pending amendment by the Senator from Kansas. I agreed to be a cosponsor of the Kassebaum package to help develop a compromise or a consensus.

I ask unanimous consent that a copy of my own proposal be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I believe it is a better proposal than the measure before us. It is no "mouse" and it is a tiger. I would ask the question: Would the leadership accept my package as a real "tiger"? I suspect not. I suggest that the leadership agreement is considered sacrosanct. It is "untouchable."

The freeze concept, which is the cornerstone of the pending amendment and the several budgets I have proposed in the past, is a fair and meaningful way to address the deficit. If we are to begin to seriously face the deficit crisis, we need to start discussions from what we spent the prior year, not from the presumed increases contained in the budget baselines. A freeze budget is fair because it is a truly across-the-board approach. It asks all Americans—working men and women, government employees, farmers, those receiving Federal retirement benefits, defense contractors, and even millionaires—to share in the burdens of deficit reduction. It is effective because the bipartisan freeze proposal saves over $41 billion in 1988. The leadership plan saves only $30 billion and the unfair Gramm-Rudman reductions save only $23 billion.

Mr. President, I am pleased to lend my strongest support to the bipartisan freeze budget. I am certain that some Americans will object to individual components of this package. However, in its entirety, it is a balanced plan of shared sacrifice. I am convinced that Americans will support such an austere plan and will willingly make their patriotic contribution to the deficit reduction effort if they believe that the total proposal is fair and that the result of the sacrifice will reduce the deficit.

I encourage my colleagues to step forward and take a stand on serious deficit reduction. This is a proposal which will build confidence in the Nation and on the financial markets and demonstrate our resolve to reduce the deficit.

EXHIBIT 1

Exon freeze proposal

[In billions]

Freeze on defense and domestic budget authority	$11.0
Legislative branch reduction (including recission of congressional pay increase)	.1
Restraint on Federal employment through attrition	1.4
2 percent COLA cap on entitlements (except SSI)	4.2
Existing reconciliation spending cuts	2.4
Compromise AG restraint	.7
Interest savings (+/−)	1.4
Subtotal	22.2
Revenues:	
Revenues on which there is agreement by budget negotiators	9.0
Delay implementation of a portion of tax cut due January 1, 1988 for top taxpayers	2.5
Oil import fee	5.0
Less rebate for heating oil	−1.0
Subtotal	15.5
Other items:	
REA loan refinancing (higher estimates exist)	5.0
IRS Enforcement (net)	1.6
	6.6
Recap:	
Total spending reductions	22.2
Total revenues	15.5
Other	6.6
Total fiscal year 1988 deficit reduction	44.3

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the Kassebaum amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the Senator from North Dakota.

Mr. CHILES. Mr. President, may I ask on what basis time is being yielded now?

Mrs. KASSEBAUM. Off of the time of the committee amendment, the Budget Committee amendment.

Mr. CHILES. Would the Chair tell me who has the time remaining on the committee amendment?

The PRESIDING OFFICER. The time on the bill is controlled by the chairman and ranking member of the Budget Committee.

Mr. CHILES. And on the amendment, what time is remaining?

The PRESIDING OFFICER. The Senator from Florida controls 4½ minutes on the amendment the sponsor of the amendment has no more time remaining.

Mr. DOMENICI. Mr. President, how much time have the sponsors of the amendment used in addition to the statutory half hour?

The PRESIDING OFFICER. The Chair would respond, 41 minutes.

Mr. DOMENICI. I yield an additional 19 minutes to the Senator from Kansas. She asked me for an additional half hour and I was not here to do that. If I understand correctly, that will be a half hour extra, in addition to the half hour she had.

Mr. CHILES. No. No, that would be an hour in addition to the 30 minutes.

Mr. DOMENICI. They used 41 minutes in excess of the 30 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Well, I had agreed to 30, so we have exceeded that. But I do not want to be unrealistic.

How much additional time would the Senator want off the bill?

Mrs. KASSEBAUM. Well, I have a request for 20 additional minutes for two further speakers.

Mr. DOMENICI. What does the chairman think about this?

Mr. CHILES. Well, I do not want to cut off anybody. On the other hand, under the rules, there was 30 minutes to the side, and the rest, of course, under the control of the chairman and ranking member. I think all of us have made certain promises to people as to when the vote would occur.

Mrs. KASSEBAUM. Mr. President, I would only ask for consideration. I have not spoken much at all because there have been many speakers who wished to speak. I would like to at least be able to ask for an additional 15 minutes.

Mr. DOMENICI. Mr. President, might I ask the distinguished Senator from Texas, if under the previous unanimous consent agreement he would have had a half an hour on his motion to recommit? Would he yield 15 minutes of that time to the distinguished Senator from Kansas?

Mr. GRAMM. I would be happy to yield it to the distinguished Senator from Kansas.

Mr. DOMENICI. I assume that would satisfy everybody, and he would then be limited to 15 minutes on his motion to recommit.

The PRESIDING OFFICER. Is there objection to the Senator from Texas yielding 15 minutes to the Senator from Kansas? Hearing none, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. I thank the Senator from Kansas and I thank the Chair.

Mr. President, we had a series of questions from the Senator from New Mexico: Why is this freeze proposal better, superior, to the proposal that has come from the leadership?

Mr. President, let me suggest that looking at fiscal 1988 tells a big part of the story. Under the leadership proposal, spending cuts in 1988, $14.8 billion; the freeze, $19.9 billion. Revenues, the leadership package in 1988, $11.1 billion. Under the freeze, $16.2 billion. Deficit reduction in 1988 under the leadership package, $33.7 billion; under the freeze, $44 billion.

Mr. President, there are significant additional savings that could develop if we would put into place the freeze: $1.6 billion in 1988 on IRS revenue enforcement; $5 billion of additional sav-

ings that could accrue that are savings that appear in the package that is presented by the leadership that could be adopted and put into place after the freeze is adopted.

Mr. President, if we take the potential that exists with the freeze proposal compared to the potential that exists with the leadership proposal, there is no comparison. And the reason is very simple. The freeze proposal takes on the sacred cows. The freeze proposal takes on COLA's. The freeze proposal freezes the tax rates.

Those are the things that the leadership walked away from. They were afraid. They were afraid they would not be supported when they came to the floor of the U.S. Senate. They were afraid that they would not be supported if they went on to the floor of the House of Representatives.

My answer and the answer of those who offer the freeze proposal is: Let us see. Let us give people an opportunity to go on record and say whether they are willing to stand and take on the sacred cow of the tax reduction, take on the sacred cow of COLA's.

If we do that, if we have the courage to stand up and be bold on those items, then we can move quickly, Mr. President, and we could take the $5 billion of additional savings that is in the leadership proposal that are not in the freeze, we could take the $4.5 billion over 2 years in IRS enforcement, we could take the $10 billion of revenue that is in the second year that is not in the Kassebaum plan, and we would have $20 billion of additional deficit reduction over the $87.5 billion that is already in this proposal.

Mr. President, I think we have got to be clear to the American people. The leadership proposal does not reduce the deficit. The deficit will be the same next year as it was last year, if we adopt it.

Mr. President, we will not be reducing spending if the leadership proposal is adopted. Spending will be going up $52 billion. And, Mr. President, in the face of mounting deficits, we will be giving a tax reduction, if the leadership proposal is adopted; $9 billion to individuals. For those earning over $200,000 a year, if we adopt the leadership proposal, we will be giving them a tax break on average of $4,500 a year. I do not know, Mr. President, how we go back to our constituents and say: "We have done our best," if the leadership proposal is what we do.

I would respectfully suggest that if we put in place a freeze and take on the sacred cows, that we would then have an additional opportunity to move ahead with further deficit reduction.

Mr. President, I come from an agricultural State. There is no reason that we would not be willing, those of us that represent agriculture, to step forward and put additional cuts on the table if the freeze proposal is adopted.

It is for those reasons, Mr. President, that I urge my colleagues to support the Kassebaum amendment.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator from Kansas.

Mr. President, let me say first, I read in a very interesting interview in the New York Times the other day, where the Senator from Washington, Mr. EVANS, was saying that one of the reasons he decided not to seek reelection was because the Senate is no longer a deliberative body. I do not see how anybody could disagree with that.

It is downright depressing, when you think of the magnitude of the deficit issue and then consider who is listening and who is paying attention and who is working and putting the country above politics around here. That is not to castigate anybody. It is simply to say that it is a depressing sight to know that nobody much is listening or paying attention during an important debate on a critical issue.

I did not vote in 1981 for the tax cut that brought about this crisis. As a matter of fact, I suppose the most courageous vote I ever cast, the one of which I'll always be proudest, was when I stood at this desk in 1981 and said: "You cut taxes by $750 billion and spend $1½ trillion on defense and you will create a deficit big enough to choke a mule." Let me tell you, I take no pride in being a prophet in saying that. You would have had to be dumb not to know that. Nevertheless, here we are today. The old saw that the more you cut taxes, the more revenue you get has been demonstrated to be as farcical as it sounds.

I want to make this statement as emphatically as I can. The approach the leadership package takes to deficit reduction will not reduce the deficit now or any time in the future. Never.

You know, I hate the Kassebaum amendment. I hate to vote for it. It is no pleasure to me to vote for some of the things in that amendment. But I will tell you something that is even more painful, and that is to look at all these Christmas cards of finely posed family pictures that I get from my colleagues. I look at the proud look on the parents' faces; so proud of their children; beautiful families.

I have sent out these cards. Nobody could be a prouder father than I am. I am such a doting father, I am overly indulgent.

The thing that is more painful to me than voting for the Kassebaum amendment is to say I am prepared for my children to lead a B-grade life and to die poor. So I told Senator KASSEBAUM that I would support her.

Colleagues, listen to this. Since 1981 the amount of nondefense, not entitlement, noninterest, discretionary money available to us to balance the budget has gone from 26 percent of the budget to 14.9 percent of the budget. What does that mean?

Listen to this. I have said it over and over again. There are roughly 500 functions of Government, from the landing lights at National Airport to the Capitol Police to the Defense Department. Five hundred functions of Government.

The Senator from North Dakota has made a magnificent statement and referred to the "sacred cows." Here they are: Defense, Social Security, Medicare, Medicaid, interest on the debt, civil service pensions, and veterans' pensions—7 of those 500 functions.

Nobody here wants to vote to cut any of those functions. You hear people sitting around the coffee shop and saying: "Why don't you cut all that spending and balance the budget? If you not only cut the other 493 functions of Government, but totally eliminate them—eliminate Congress, eliminate the White House, eliminate the court system—and just fund those seven functions, eliminate everything except those seven sacred cows, you would still have a $56 billion deficit. That is the reason the leadership package takes us nowhere.

We will be back here in April rewriting this issue because by the time April gets here we will then know that the growth rate in this country is going to be increasing at only 2 percent instead of the 3 percent we're assuming now. CBO says that for every percentage point the growth rate is below their projection of 3 percent, you can add roughly $17 billion to the deficit.

Nobody doubts for a moment that we are going to be here in April, back at the same old stand, trying to deal with this knotty problem, because we're deluding ourselves with this so-called leadership package.

It was a pitiful sight seeing those budgeteers negotiating. I respect them and I applaud them because they were operating under such terrible constraints: no, you cannot do this; no, you cannot do that.

You know what my attitude is? Send the President a package that has real budget reduction in it. If he wants to veto it, let the blame be on his hands. That is not Congress' responsibility to fold because the President said he is going to veto something.

It was almost an obscenity to watch those men trying to raise $9 billion in revenues on the one hand while we give away $17 billion in tax cuts on January 1, 1988, which goes to the wealthiest people in America.

Look at this chart right here, colleagues. (Referring to chart.) Take a look at this chart. There it is. This is what the tax reform law means.

This is not what Senator DALE BUMPERS says. This is what the Joint Tax Committee says happens with tax reform.

They say that if you let the 1988 tax rates go into effect you are going to give people who make over $200,000 a year an average tax cut of $4,384. All the people who earn $50,000 or less get a tax increase.

Let me go further. Do you know the average income of the people in this country who make over $200,000? There are about 579,000 taxpayers who file tax returns on over $200,000 a year. But do you know what the average income of that group is? It's $489,000. They are the people who get virtually every dime of that $8.2 billion tax cut that goes into effect January 1, and here we are trying to raise $9 billion someplace else in order to accommodate the richest of the rich.

You may not favor a tax increase, but will everybody who favors a tax cut for the rich while we are trying to address a $2.3 trillion debt please stand up?

I have seen some insane things around here, but I believe that this tax cut at this time is the height of idiocy. There is no other way to describe it.

How are you going to tell your constituents back home how you labored and groaned and moaned and heaved to come up with a $30 billion package of which at least $12 billion is smoke and mirrors?

Listen, if you add to the Kassebaum amendment a sale of assets of $7 or $8 billion in assets and put one of those phony $1.6 billion figures in for IRS enforcement, you will have a $52 billion package here.

Mr. President, I only have 10 minutes, so I will just close by saying that whenever I have made a speech in my State to my people, saying I did not vote for all this plan in 1981 and I have explained why, they have applauded. There were only 11 Senators who stood up here and voted against that tax cut. I have found since I have been in politics that occasionally if you stand up and do what you honestly believe is right and just and proper, you can go home and I do not care how unpopular it is, I do not care whether it is taxes or Robert Bork or you name it and people appreciate it. If you do not have the ability to go home and justify a courageous vote, you do not deserve to come back here.

In Arkansas they have applauded the fact that I voted against those tax cuts which have brought us to this miserable moment in the history of the country.

I have not mentioned it, but I will do everthing I can to keep this terrible tax cut from going into effect, and if it goes in into effect I will do everything I can to repeal it.

It is tough to give a passionate speech about taxes, budget freezes, and asset sales, but it is easy to get passionate about the future of the country. It is easy to get passionate about my children's future. They have a right to demand that we hand over to them a vibrant, viable Nation. You and I have been most fortunate, and we owe our children a little good fortune too.

And so, Mr. President, I will just close by saying I have listened intently in the privacy of the cloakroom, and is it not curious that I have not heard three people in the cloakroom say this leadership package is a good one. I have heard people say they will vote for it, but I have not heard one say it will come close to doing the job. I have heard people speak in the cloakroom who wished they had the courage to vote for the Kassebaum amendment. This is a sad commentary on this body. I hope no one will rationalize a vote for this package with the reason that we want to get out of here by December 19 so we have to pass this package. I will stay here as long as it takes because I want next year to be a happier Christmas than this one.

I thank the Senator from Kansas for yielding to me.

THE SUMMIT AGREEMENT ON DEFICIT REDUCTION

Mr. KASTEN. Mr. President, the budget summit compromise shows conclusively that the Gramm-Rudman-Hollings Act works. The threat of the automatic "hammer" has forced the President and the congressional leadership to come to the bargaining table to hammer out a deficit reduction agreement. This is a positive development.

Unfortunately, the actual agreement does very little to reduce the growth rate of Government spending and promote continued economic prosperity.

For starters, the majority of the proposed $30.2 billion is derived from defense cuts and higher taxes. There are virtually no substantive reductions in nondefense spending. Most of the nondefense savings consists of accounting gimmicks, one-time asset sales, or savings that have already been achieved by Congress.

Second, the proposed $23 billion 2-year tax increase does nothing to address the underlying cause of Federal deficits: the growth rate of Government spending. In fact, past experience tells us that higher taxes often lead to increased Federal spending.

Real deficit reduction can only occur by restraining spending growth. This package does not do this. Under the leadership package, Federal spending will increase by $50 billion over fiscal 1987. That's over twice the increase that occurred last year.

Mr. President, given the fact that the growth of Federal expenditures is not reduced in any meaningful way, I have decided to oppose the leadership agreement.

There are other options available that produce real reductions in spending growth. Senator KASSEBAUM's amendment to freeze both defense and domestic spending, and provide for a 2 percent increase in entitlement COLA's is the kind of approach that we should be taking on the spending side.

I do, however, oppose the tax rate freeze envisioned by the Kassebaum plan. It would deny the American people the much-needed tax relief promised under last year's historic Tax Reform law. If the Finance Committee's proposed revenues, or some other combination of taxes that would not harm the economy, were substituted for the tax rate freeze, I might be able to support it because the balance is shifted towards meaningful spending restraint.

I agree with the distinguished Senator from Oregon, Senator PACKWOOD, that the sequester may be preferable to the leadership package. Many of my colleagues have argued that a sequester would be disastrous. They argue that the sequester represents a failure of leadership and that the cuts are too deep. I myself oppose some of the cuts envisioned under sequester.

But we should remember that a sequester is a permanent reduction in the spending base. Contrary to the illusory spending cuts and real tax increases in the budget compromise, a sequester would actually cut government borrowing by $23 billion.

U.S. businesses would have $23 billion more to finance domestic investment. Under the leadership agreement we'll be lucky to see $15 billion of reduced demands on the financial markets.

I think the markets are looking for real results—not an agreement for agreement's sake. They are looking for reduced pressure in the capital markets.

A sequester is not my first choice. But neither is the leadership agreement. I would have liked to have seen some constructive approaches to reduce the deficit such as a capital gains tax rate cut, granting the President a line-item veto or enhanced recission, and the implementation of the Grace Commission recommendations to achieve savings through reduced waste and mismanagement.

I hope that we can come up with a deficit reduction package that adopts the Kassebaum approach to restrain spending across-the-board. This kind of approach is fair, equitable and, more important, effective.

Restraining the growth rate of spending is the only meaningful way

to reduce the budget deficit and assure continued economic growth for the American people.

Mr. BINGAMAN. Mr. President, I rise in support of the leadership perfecting amendment to the Omnibus Budget Reconciliation Act of 1988.

First, I want to offer my sincere appreciation to my good friend and chairman of the Budget Committee, the senior Senator from Florida [Mr. CHILES] for his contribution to the budget process and his efforts in shaping this budget package. Many others have also been involved in this effort and deserve praise, including the majority leader, the minority leader, the ranking member of the Budget Committee and many others. This package represents the labors of many individuals over many, many hours, but none more prominently than the distinguished senior Senator from Florida whose leadership in the Senate will be sorely missed in the 101st Congress.

The leadership package with a combination of balanced spending cuts and prudent revenues will reduce the deficit by $33.74 billion in fiscal year 1988 and $46.17 billion in fiscal year 1989 for a 2-year total of $79.91 billion. The elements of this bipartisan agreement lower the deficit by an amount that exceeds the requirements of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987—the Gramm-Rudman-Hollings Act—and thus eliminates the need for sequestration. As pointed out by others, this action goes beyond deficit savings of last year and previous years. The reductions in fiscal years 1988 and 1989 surpass deficit cuts in each of the previous years of the Reagan administration. As a result, this package is the most significant response yet to spiraling budget deficits of the 1980's.

This package is also significant in that it not only has bipartisan sponsorship but involves the Reagan administration. Throughout my tenure in the Senate I have been impressed with the President's lack of real involvement in congressional efforts to reduce the massive budget deficit that was accumulated during his watch.

I must say that I do have some reservations concerning this agreement. It is by no means perfect, but it is consistent with my efforts to be among the constructive majority of Senators who would rather take some action to reduce the deficit instead of letting it mount in favor of the elusive "perfect" plan.

Among the concerns I have about this package include the effect it could have on guaranteed loans. In the effort to reduce them, nationwide reserves would be reduced by $250 million—$1.4 million from the New Mexico Student Loan Corp., a 62-percent reduction. I also question the wisdom of some of the asset sales called for, as well as changes in Medicare, in farm price supports, and in Federal personnel. I regret some of the changes very much and would prefer that other options could be substituted, but it is clear that any changes would upset the delicate agreement reached between Congress and the administration.

It is clear to me, Mr. President, that there are some very serious shortcomings in our budgetary process at this time and I urge all of my colleagues to call for realistic changes that can make the system work more fairly for all Americans. It is clear we cannot keep spending more than we receive in revenues and it is clear we must stop this game of saddling future generations with our debt. The leadership package can be a significant down payment toward action to reduce spending, but more, much more, needs to be done as soon as possible.

Mr. LEVIN. Mr. President, the Senate today is presented with a choice. Does it end up doing the minimum necessary to reduce the deficit and to restore some degree of faith in the financial markets and in the public at large? Does it simply accept doing the minimum necessary to avoid the blunt and irrational across-the-board Gramm-Rudman cuts? Or, does it try to do something more; something more credible, more equitable and more effective. This is the choice before us today.

The leadership package is surely better than nothing. It is better than the aimless drift of budget deficits in the $150 to $200 billion range. These deficits threaten our economic security and even our economic sovrenreignty. The collapse of the stock market in October was only the foretaste of what could come.

This Nation is being forced to walk a monetary tightrope: if interest rates are kept high in order to attract the foreign investment now sadly needed to help finance our deficit, then we risk stifling economic activity and throwing this country into a recession. If, on the other hand, we lower interest rates in order to sustain economic growth, then there is the risk of reducing the attractiveness for foreigners of U.S. investments, with the paradoxical result that foreign funds needed to help finance the deficit will dry up and interest rates will then rise in any case.

So, we're in pretty much of a "damned if you do and damned if you don't" situation because of the need to attract foreign funds to help finance the deficit. The only way out of this bind is to reduce the deficit itself.

Of course, we could rely on the automatic across-the-board Gramm-Rudman cuts for this minimal action. But we would do so at the risk of shaking further the confidence in our ability to demonstrate leadership in handling this Nation's economic affairs. It was the need to restore confidence that led the congressional leadership and the President to the summit in the first place. Relying on across-the-board cuts in domestic and defense programs to reduce the deficit would also jeopardize our ability to adequately fund programs to improve and protect the quality of life for all Americans. In a sense they are like surgery without anesthetics—the job gets done, but at the considerable discomfort of the patient.

So while the across-the-board Gramm-Rudman cuts would be preferable to inaction, the leadership amendment is preferable to the Gramm-Rudman cuts. But we should do more, and the "more" is represented by the Kassebaum substitute.

The Kassebaum approach has two distinct advantages over the leadership amendment.

First, it provides for greater deficit reduction in fiscal year 1988 and over fiscal year 1988 and fiscal year 1989 combined than does the leadership amendment. Looking at fiscal year 1988, the Kassebaum substitute would reduce the deficit by $41 billion instead of the leadership amendment's $33 billion—a difference of about 25 percent. This extra margin of deficit reduction is exactly what the financial markets and the American people are looking for in terms of a resolute commitment for serious deficit reduction.

Second, it provides for more equitable deficit reduction in the form of shared sacrifice. The element of the Kassebaum substitute that I find most attractive is its freezing of the income tax rates at the 1987 levels. Under the 1986 tax reform law, those rates are scheduled to drop in 1988, in a manner which primarily benefits the highest income individuals.

I know that opponents of the rate freeze argue, for example, that we simply must reduce the maximum marginal tax rate for the highest income taxpayers from 38.5 to 28 percent as scheduled. They talk of how the American people are holding us to a so-called "solemn commitment" not to change the tax reform rate structure in any way. That rhetoric doesn't match up with the facts. Earlier this year, a nationwide sample of the American people was asked whether the top Federal income tax rate for the wealthiest taxpayers should be cut next year, as scheduled, to 28 percent, or should the rate for those taxpayers stay at the current 38.5 percent, with the money gained being used to reduce the deficit. By a margin of 3 to 1—61 to 20 percent—this nationwide sample said, "reduce the deficit, not the rate."

The Kassebaum substitute freezes rates at the 1987 level. By doing so, it assures that the wealthiest taxpayers in this Nation will share in the burden of deficit reduction. What troubles me

about the Finance Committee portion of the leadership amendment is that, because it allows income tax rate cuts to take effect next year, some very wealthy taxpayers particularly will not pay a dime more toward deficit reduction at the same time we are asking for sacrifice through spending restraint from some of the less-well-off members of society. Furthermore, freezing the income tax rates, thereby assuring shared sacrifice by the upper end of the income scale, is so important that I am willing to vote—albeit reluctantly—for a 2 percent cap in social security and Federal retirement cost-of-living-adjustments in order to achieve it. It is also important to me that under the Kassebaum substitute supplemental security income—the Federal assistance program for the poorest and most vulnerable would still receive a full cost-of-living adjustment.

Now, there are those who will argue that if the Senate adopts this substitute, it will assure a presidential veto and the across-the-board cuts. However, I think it is much more likely that if the Senate passed the Kassebaum substitute, it would be greeted with such enthusiasm in the domestic and international markets and with such applause by the American people that either the President won't veto it or his veto would be overridden. If, however, it turns out that his veto is not overridden, the Congress could still attempt to pass the leadership amendment.

Sure, there is some risk in taking this extra step for deficit reduction. But there is a greater risk—to our economy and to our long-term fiscal health—in our taking only the minimal action necessary. The leadership amendment is the bare minimum. The Senate can do better. We should lead by passing the Kassebaum substitute.

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment offered by my good friend from Kansas, Senator KASSEBAUM. Before I outline my rationale for opposing the amendment, I want to first thank the Senator for having the courage to bring it before the Chamber. I share her frustration over the inability of National Government leaders to attack the Federal deficit in a meaningful way. And if this was the first time the Senate debated this issue, I might be inclined to agree with Senator KASSEBAUM that this amendment is necessary.

But this is not the first time the U.S. Senate has debated a freeze amendment, Mr. President. Every year for the last 7 years we have debated a freeze amendment. And in 1985, when it appeared that there was no other option, I supported the biggest freeze of all. I supported that amendment because the leadership of the House and the President's advisers had decided that $200 billion deficits were preferable to a tax increase or cuts in the programs which were important to them—defense and entitlements.

Some people would say that the Senate's vote that evening was a mixture of drama and history. Dramatic in that an ailing Senator was pulled out of a hospital at 1:50 a.m. in order to give the Vice President an opportunity to cast the tie-breaking vote. Historic in that it was one of the Senate's boldest efforts to get deficit spending under control.

Everyone in the Chamber knows what happened after that vote. The President was on the phone making a deal with Tip O'Neil before the Vice President got back to the Oval Office. In the end, good politics won out over responsible policy. And we are now struggling to cope with the consequences of those good politics—Gramm-Rudman-Hollings.

Like most Members in this body, I view the Gramm-Rudman process much like I viewed the vote in 1985. It is a necessary evil. It forces those who don't seem to be bothered by $200 billion deficits to come to the table and make the hard policy choices necessary to get the deficit under control.

The most frequently heard criticism against the Gramm-Rudman sequester process is its mindless nature. I often refer to it as our own "vegomatic". Good programs suffer along with bad. It is an accounting procedure which makes no allowance for policy.

It is not my intention to claim that the leadership package that is pending before the Senate is perfect. But it is infinitely better than sequestered cuts or any other mindless approach to deficit reduction. It represents a conscious decision by the Members of the Senate to change policy in a way that produces lower spending and narrower deficits. It picks and chooses between good programs and bad. It is an attempt to make policy.

Consider, on the other hand, the freeze approach. Senator after Senator has come before the Senate and accused those who would vote against this amendment as lacking courage. Well, I welcome them to join us on the Finance Committee. Tell our Nation's health care providers that the changes we are making in Medicare aren't painful. We'll reduce payments to doctors and hospitals over the next 2 years by $5.5 billion. Over the 4-year period—1986 to 1989—Medicare payments for hospital services to 30 million elderly and disabled Americans will have risen by an annual average of less than 2 percent against an average increase in hospital costs of 7 percent by tough decisions taken in the Finance Committee.

Let's be honest with ourselves and our constituents. Year after year our constituents write us letters, visit our offices, pull us aside when we visit their town and tell us what is on their minds. If your constituents are anything like mine, they have deficits on their minds. They put us in office, and they want us to solve the deficit. Not postpone it, solve it. Not tomorrow, today. Now.

And that is why the Senate should defeat this amendment. It doesn't make hard choices, it just postpones them. It is the easy way out of our deficit dilemma. It freezes good programs with the bad, and in so doing, it forces the good programs to suffer so that the bad may escape our scrutiny. A freeze is a poor substitute for policy. I hope the Senate has the wisdom to reject this amendment.

Mr. SIMPSON. Mr. President, I rise in support of the Kassebaum amendment. I am a cosponsor of the amendment and I believe that a strong case has been made for adoption of this amendment. I support this amendment for the following reasons:

The amendment achieves deficit reduction in the amount of $41.6 billion for fiscal year 1988 by imposing a spending freeze upon defense and nondefense discretionary programs at fiscal year 1987 appropriated levels:

The leadership deficit target for fiscal year 1988 is $30.2 billion, which has been characterized by Senator PHIL GRAMM as only an attempt at controlling spending rather than producing actual spending cuts.

A spending freeze holds spending in check and results in true deficit reduction rather than the illusory spending cuts proposed by the leadership amendment.

Deficit reduction is achieved without raising additional taxes:

The deficit is the result of excessive spending not undertaxation. The leadership amendment proposes $9 billion in additional taxes. A recent Newsweek poll found that Americans prefer spending cuts to taxes by a 6-to-1 margin. Tax practitioners have complained that the revenue raising provisions of the leadership package will only further complicate a Tax Code that has been changed nearly every year for the last decade.

The Kassebaum amendment proposes a 1-year freeze of the tax reform act of 1986, which will freeze the entire code, not just the rates. Thus the phase out of consumer interest, investment interest and passive losses would be frozen at the 1987 level of 65 percent deductibility instead of the scheduled 40-percent deductibility. This is advantageous to taxpayers. However, freezing tax rates at 1987 levels rather than allowing them to drop in 1988, is certainly disadvantageous to the taxpayer.

The Kassebaum amendment provides for cost-of-living adjustments [COLA] on all emtitlement programs of 2 percent rather than 4.2 percent.

I admire Senator Kassebaum's consistency, sincerity, and courage in proposing this alternative package to the Senate, and I support her. This package is the only honest way of trying to achieve fiscal sanity—because it deals with the cost-of-living allowance.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, if I may ask, I believe all my time has been used?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHILES. How much time does the Senator from Florida have remaining?

The PRESIDING OFFICER. The Senator from Florida has 14½ minutes remaining.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1260 TO AMENDMENT NO. 1254

(Purpose: To reduce federal expenditures by imposing a discretionary spending freeze, and for other purposes)

Mr. GRAMM. Mr. President, I send an amendment to the amendment of the leadership to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1260 to Amendment No. 1254.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

of the language proposed in amendment No. 1254;

In section 9001 (a)(1)(A), strike "$292,000" and insert in lieu thereof "$291,300";

In section 9001 (a)(1)(B), strike "$285,400" and insert in lieu thereof "$284,100";

In section 9001 (b)(1)(A), strike "$166,200" and insert in lieu thereof "$161,000"; and

In section 9001 (b)(1)(B), strike "$176,800" and insert in lieu thereof "$175,000".

Mr. GRAMM. Mr. President, I have been sitting here pondering whether I should offer a motion to recommit with instructions to strike the tax provision of the Kassebaum amendment and, therefore, give Members an opportunity to vote on whether or not they want the 28-percent marginal rate to go into effect, or whether to offer this perfecting amendment to the underlying leadership amendment.

I have decided to offer this perfecting amendment because I find a lot of people who are for the leadership amendment are going to vote against both my motion to recommit and the Kassebaum amendment. I thought that that would create some confusion about where this body stands on the issue of lowering marginal income tax rates next year from 38 to 28 percent.

So, Mr. President, I have sent a very uncomplicated amendment to the desk. I apologize to my colleagues if there is any confusion, but I can clear it up very briefly.

The amendment that I have sent to the desk is to the leadership amendment. Instead of the figures for defense and nondefense discretionary spending that are contained in the leadership amendment, my amendment simply freezes discretionary spending, defense and nondefense alike, in fiscal year 1988 at fiscal year 1987 levels. By freezing next years' level of spending authority at this year's level, although outlays will increase in both defense and nondefense we still are able to save a total of $3.2 billion.

Mr. President, we have all talked about trying to do something about the deficit. Senator KASSEBAUM has given us a choice on an overall freeze involving COLA's and involving reimbursement under Medicare and Medicaid.

Unfortunately, it also freezes the marginal tax rate at 38 percent instead of fulfilling the tax reform promise we made to the American people that the marginal rate was going down to 28 percent.

So the amendment I have offered gives Senators an opportunity to demonstrate that they are at least serious enough about reducing spending that they are willing to freeze the discretionary accounts, defense and nondefense alike, in terms of budget authority, not outlays, at this year's level.

Now, we would still have the flexibility within the nondefense discretionary account to increase funding for AIDS research, or to increase expenditures on airport and air travel safety, but we would have a freeze on the aggregate amount available for such discretionary spending.

Mr. President, I remind my colleagues that there are a lot of Americans who would view freezing spending this year at last year's level to be child's play. A lot of people in my State over the last 2 years have lost their jobs, have had to reorder their lives, and they have done it. All that this amendment does is simply ask that in the discretionary accounts we limit next year's spending authority for defense and nondefense alike to the level that we spent this year.

Now, that is a straightforward amendment. If we adopt it, it would mean that we would go into conference with the House with a lower deficit in fiscal year 1988, lower by $3.2 billion, than would be the case if we adopt the leadership amendment. If we are not serious enough about deficit reduction to at least freeze, not cut but freeze, the discretionary accounts, then I do not think we are very serious. This is as modest a change in the leadership package as you can make.

Now, if you vote for this change, it does not preclude you from coming back and voting for the Kassebaum amendment. You may decide to do that. You may not. But if this amendment is adopted, whether the Kassebaum amendment is agreed to or not, the deficit will be $3.2 billion lower, not because we cut anything but because we froze discretionary spending next year at this year's level.

Now, Mr. President, I cannot resist going back to a comment that was made by the distinguished Senator from Arkansas. I would like to comment on this whole issue of freezing tax rates next year at this year's level.

As I listened to the distinguished Senator from Arkansas—and I often agree with him, but I have a hard time agreeing with him on the statement that he made earlier—it seemed to me that his statement basically boiled down to the following sort of assertion, that somehow if we did not freeze tax rates, if we let the marginal rate go down to 28 percent, people were not going to have a Merry Christmas.

Now, can you imagine it, Joan and Johnny Brown are working in Waxahachie, TX. They both have pretty good jobs; they both make $20,000 to $25,000 apiece. They are saving money to send their children to Texas A&M University. They are involved in all kinds of activities, giving a little money to the church, a little money to school, a little money to the community chest, and now we are asked to believe that unless we keep their tax rates at 38 percent they are not going to have a happy Christmas. Can you imagine John coming in and saying to his wife, "We are not going to have a happy Christmas because Congress had passed a law that was going to lower our marginal rate of taxes from 38 to 28 percent and they have decided to let that go into effect instead of freezing it at 38 percent."

Now, Mr. President, that may explain behavior in some other State, but it does not explain behavior in Texas. People in my State are not going to have a blue Christmas if we do not raise their taxes. They are going to have an unhappy Christmas if we do raise their taxes, and what

they would like us to do is to control our spending.

The amendment that I have offered is a very modest amendment. I remind my colleagues that all it does is stipulate that the current level of the two aggregate discretionary spending accounts, defense and nondefense, will also be next year's spending level in those same two aggregate discretionary accounts.

By doing that, we will save $3.2 billion. That is not heavy lifting. That is not cruel and unusual punishment. That is simply asking the Federal Government to operate like every family and every business in America has to operate. In fact, even with the adoption of this modest amendment, total Federal spending next year will still grow by over 3 percent. So this is a reasonable proposal. I hope that my colleagues will support it in overwhelming numbers.

Mr. President, I reserve the remainder of my time.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Texas will yield for a question.

Mr. GRAMM. Mr. President, who controls the time in opposition to this amendment?

The PRESIDING OFFICER. The Senator from Florida controls the time in opposition.

Mr. GRAMM. I would be happy to yield to the distinguished Senator from Kansas.

Mrs. KASSEBAUM. This is just a question.

Mr. GRAMM. Since there is 30 minutes on the other side, perhaps the Senator from Florida would like to yield or, if not, I will.

Mrs. KASSEBAUM. I merely want to ask a question of the Senator from Texas, not to make a statement.

Mr. GRAMM. I yield.

Mrs. KASSEBAUM. I heard the Senator speak about discretionary spending. Does he touch the entitlements in his amendment?

Mr. GRAMM. I do not. So all this amendment does, to show you how modest it is, is take the discretionary aggregate accounts of the Government, defense and nondefense, and in those two aggregate accounts, just as is the case in the package of the Senator from Kansas, the level of budget authority for next year is limited to the level we are spending this year. We limit the aggregate of nondefense and defense discretionary spending next year to the amount that we spent this year. And in doing so we save approximately $3.2 billion.

Mrs. KASSEBAUM. I thank the Senator.

Mr. GRAMM. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair would inform Members that if time is not yielded the time is taken off both sides.

Mr. GRAMM. Mr. President, I send a technical correction to my amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

Of the language proposed in amendment No. 1254:

In Section 9001(a)(1)(A), strike "$292,000" and insert in lieu thereof "$291,300";

In section 9001(a)(1)(B), strike "$285,400" and insert in lieu thereof "$284,100";

In section 9001(b)(1)(A), strike "$162,900" and insert in lieu thereof "$161,000"; and

In section 9001(b)(1)(B), strike "$176,800" and insert in lieu thereof "$175,000",

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Arizona?

Mr. CHILES. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. DECONCINI. I thank the chairman.

Mr. President, I rise to oppose the amendment of the Senator from Texas. Let me say I realize his intention here is to achieve a greater savings than the package has in it. That I have to applaud. We all could add additional things to cut or additional things to tax or additional things to shift from one area to another. But in this instance it seems to me that the best has been put together. And if we mess with this, let me just explain to my colleagues what it may mean to the programs that some of us have worked long and hard on.

Being chairman of the Subcommittee on Appropriations that has authority and jurisdiction over the Treasury, the Post Office and other governmental authorities, including the Internal Revenue, which is one of the biggest fundraisers for this country, I am sure those listening are not too happy to hear that, but in fact, that is the case. The compliance on the Internal Revenue Code is one of the key areas that we always seem to go to. I do that quite reluctantly. However, if we adopt this amendment, as has been explained to me, it would necessitate cutting another at least $2 billion from the domestic programs. We are already going to have a cut of approximately 3.5 percent. What does that mean? Just in the area of drug enforcement, that means quite a cut. That means a reduction in customs agents, a reduction in the Border Patrol, a reduction in the law enforcement across the board, and those are already going to take a 3.5-percent hit.

So I think it is important that as we go through this exercise this evening we carefully weigh because now we are talking about priorities. We are talking about what do we think are the important parts of the Federal Government, and I think drug enforcement happens to be one of them, and law enforcement. We can all share in the hurt, share in the amount of reductions that have to come about, but do we want to start cutting away at the capabilities just when we are about to start to succeed in stopping the flow of drugs into this country, particularly from our southern borders? I submit that is not in the best interest here.

Those will argue saying, listen, we have to cut this deficit at any cost. Well, where have we all been for the last 7 years? The deficit has grown and grown. We have finally reached a package here that truly reduces the deficit by $30 billion. That is better than I have seen in almost 11 years that I have been here where we are actually going to see it go downhill. So I hope we do not adopt this amendment. I think it would be detrimental to our drug enforcement effort, not to mention many, many other programs that need to be at least maintained, and only take a cut of 3 percent. That is a substantial cut in many, many vital areas.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. GRAMM. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAMM. Mr. President, we have just heard the distinguished Senator from Arizona talk about cuts. I want to remind my colleagues that there are no cuts in the level of defense spending in the leadership package. In fact, under the leadership package, defense grows above current levels by $3 billion or 1.3 percent. There are no cuts in the aggregate amount of nondefense discretionary spending in the leadership package. In fact, it grows by $7.1 billion or 4.1 percent.

All the Senator from Texas has said is, let us freeze the aggregate budget authority for defense and nondefense at this year's level. That will mean that defense will still grow by $1.6 billion and nondefense will still grow by $5.3 billion. Yet, we hear that if we do that, we are going to be cutting drug enforcement, and we are going to be cutting this sacred cow and that sacred cow. It sort of makes you wonder what the average family does when Johnny falls down and breaks his arm. They have to go out and spend money to have that arm set.

And you would wonder how they do it. Well, they do it by reordering priorities. They do it by not going to the movies. They do it by not going on vacation.

I have proposed here the most modest of amendments. The amendment saves $3.2 billion out of a $1.046 trillion budget. It does not direct that drug enforcement or anything else be cut. It simply says that we are going to limit defense budget authority to the level of this year. We are not going to cut it. We are going to limit the nondefense discretionary budget authority to the level of this year. And yet we keep hearing about all these cuts. Well, I submit to my colleagues that if we cannot even limit the pace of spending growth without everybody bringing up every sacred cow in the budget, how are we ever going to deal with the deficit problem?

And I remind my colleagues that in the leadership package we would spend 4.5 percent more next year than we spent this year. In nowhere else but Washington, DC, in fact, more specific than that, here in this great Capitol, nowhere else on Earth would that be called a cut in spending. All I have proposed to do is not cut, but limit, spending growth. Yet, we hear the outcry, "Do you realize if we limit the growth that we are going to have to make these cuts?"

I am simply asking that we let defense next year, in terms of budget authority, stay where it is this year. Let nondefense discretionary spending next year stay where it is this year. That is not cruel and unusual punishment. Surely, in a $1,046,008,000,000 budget we can limit the growth of spending to what would still be more than $40 billion. That is, let it grow by $40 billion but not $44 billion and still not have the functioning of the Government come to an end.

So I hear the arguments, but they sound awfully weak to me, and I think they are going to sound weak to the American people.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, will someone yield me time?

Mr. CHILES. I yield the Senator 5 minutes.

Mr. JOHNSTON. Mr. President, I think it was H.L. Mencken who said that for every complicated problem, there is a simple solution and it is always wrong. I hope I did not misquote Mr. Mencken; but if he said that, it is entirely true with respect to this amendment.

It has the advantage of simplicity. You can put it on a bumper sticker. It says "freeze," and maybe the American people like the freeze. I do not know. At least, they might like the simplicity of the bumper sticker.

Mr. President, if I was ever sure of any one thing, it is this: It will not work.

I had the duty of being on that so-called budget summit and sitting there in that room week after week, with the Secretary of defense, Mr. Carlucci; with representatives from the White House; Jim Baker; Howard Baker; the Director of OMB. We looked at that defense budget. We talked for days and days and days on the question of whether the figure should be $285.4 in outlays or $285.5 in outlays.

You might say that $100 million does not make any difference in the defense budget. Well, if you had been in that budget summit and sat next to the Secretary of Defense, you would know that it does make a great deal of difference.

It makes a great deal of difference in the domestic side whether you cut $100 million or $200 million. Indeed, we argued that for weeks, because it means, for example, a question of whether you can or cannot have the space station; the question of whether you can or cannot have additional money for the super collider; the question of whether you can or cannot have a program of nutrition for hungry children.

Mr. President, these figures, an additional $1.4 billion cut in defense, simply have no relationship to needs, to the threat from the Soviet Union, to the ongoing weapons programs. The only thing it has to do with is the fact that it says "freeze" and that you can write it on a bumper sticker.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. NUNN. Is the Senator saying that the Gramm amendment cuts 1.4 or 1.5 out of outlays on defense? What is the number?

Mr. JOHNSTON. The number I have is that it cuts out an additional $1.4 billion in outlays.

Mr. NUNN. Below the leadership package or below the Kassebaum amendment?

Mr. JOHNSTON. Below the leadership package.

Mr. NUNN. Below the leadership package?

Mr. JOHNSTON. That is correct.

Mr. NUNN. And that is in outlays, not budget authority.

Mr. JOHNSTON. That is in outlays. As the distinguished Senator from Georgia knows, the outlays in defense, I think, is a ratio of about 2 to 1.

Mr. NUNN. About 3 to 1.

Mr. JOHNSTON. I think you would have to cut——

Mr. NUNN. I understand that it is only a .7 cut in budget authority and a 1.5 cut in outlays, which means it has to come out of personnel. That is the only way you can get that ratio.

Mr. JOHNSTON. You would have to fire civilian employees or cut the troops. It is as simple as that.

Mr. NUNN. I agree with the Senator.

Mr. JOHNSTON. For example, we could cancel this aircraft carrier which is in our defense appropriation bill, and that, I think, is $3.2 billion in budget authority; but in outlays it is less than $100 million because the spendout rate is so slow in that.

This would devastate defense. It would absolutely devastate defense. The Secretary of Defense, if he were here, would say that.

I think the kindest thing I can say for this amendment is that it is a killer amendment. If here, on the eve of Christmas, we want to kill this whole package, then adopt this amendment, because it would be vetoed and it would not work.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BUMPERS. Mr. President, who controls the time on this amendment?

The PRESIDING OFFICER. The Senator from Florida controls 18 minutes and 56 seconds. The Senator from Texas still has 13 minutes remaining.

Mr. GRAMM. I yield myself such time as I might use.

Mr. President, we have just heard that if we limit the growth in defense to $1.6 billion more next year than this year—that is, if we only spend $1.6 billion more next year then we are spending this year—we are decimating defense; that, in fact, Ivan will knock down the gate and our freedom will be lost.

We have also heard that if we do not let spending on nondefense discretionary programs grow more than $5.3 billion next year, we are not going to have a space station, we are not going to be able to control communicable diseases. I am glad they did not go into the whole repertoire or everybody's eyes might have been filled with tears.

Does anybody really believe that limiting spending authority on discretionary accounts next year to the level we spent this year would mean that Ivan would knock down the door or that we could not come up with money, out of a budget of $1.046 trillion, to fund the space station?

In fact, for the increase in discretionary nondefense accounts that this amendment provides, we could fund the space station five times over.

For the growth allowed under this amendment, we could fund the increase given last year on health research 10 times over.

All this amendment does is to seek to limit the aggregate growth in spending. This amendment does not cut anything. All this amendment does is take the current aggregate for defense and state that, in terms of budget authority, we are not going to commit any more new spending next year than we did this year; and it takes the aggregate for nondefense discretionary, and pledges that we are

not going to commit any more spending next year than we did this year.

Now, if you want to cancel the new $8 million weed research center at North Dakota University, or if you want to put the cap back on the beekeepers loans, so that beekeepers cannot get any more than $250,000 a year from the Government—we removed that last year in the emergency spending package because it was terribly unfair—if you want to do those things, you can get more money for space and you can get more money for combating communicable diseases.

I ask my colleagues to be serious. We are not having serious arguments against this amendment when we hear that we are not going to be able to defend the Nation if we freeze aggregate defense spending next year at this year's level or that we are not going to be able to keep the skies safe or fight communicable diseases or protect ourselves against illegal drugs.

This amendment simply says let us freeze discretionary budget authority in the aggregate, defense and nondefense alike, at this year's level. Such a freeze, when combined with spending already approved and in the pipeline, would still result in a net increase in total spending levels in those two aggregate, discretionary accounts.

I submit that that is not heavy lifting or cruel or unusual punishment. People have said to me: "Well, I am shocked. Why aren't you doing something about entitlements?" Well we are going to get an opportunity to vote on entitlements in the Kassebaum amendment.

I am simply giving Members an opportunity in the easiest and most painless form to save $3.2 billion.

Now you either want to save that money or you do not want to save that money. But saving the money does not mean that we cannot fight drugs; it does not mean that we cannot have a space station, because the reality is that even while saving this money we will still spend more than we did last year because of the spend out rates of money we committed last year and in prior years.

So this amendment simply states that defense will be $1.6 billion more in outlays next year than it is this year and that nondefense discretionary spending will be $5.3 billion more in outlays next year than it is this year.

I submit to my colleagues that that is a very modest amendment. Some will say it is too modest. "I am not going to vote to save $3.2 billion. If GRAMM is serious let him propose to save $32 billion."

Of course, if I proposed saving $32 billion they would say, "My gosh, the world is going to come to an end if you save $32 billion."

So I submit it is sort of like the fellow who was too heavy for light work and too light for heavy work. No matter how you write it they are not going to vote for it.

All this amendment does is give us a straight up or down vote on the simplest, most painless way to save $3.2 billion.

That is not very much. But do you realize that that is a third of the total level of real spending savings next year in the leadership package? When you take out REA where we let loans be refinanced and where we lose almost $2 billion in present value by allowing them to be paid off without a penalty, when you take that kind of business out of the leadership savings, you find that we have here almost a third as much in this little amendment. This little amendment saves almost a third as much in terms of controlling the growth of spending as the leadership package does.

So it is simple. It is reasonable. It is relatively painless in a trillion dollar budget and yet it raises the level of total spending control measures and deficit reduction by almost a third.

So I urge my colleagues to vote for this very simple addition, save a little more money, $3.2 billion. We go to conference with the House. They are already way over the agreement anyway. Let us go into conference under the agreement and maybe we will come out either under it or on it. I cannot see any harm that can come to the Nation and I can see a lot of good that can come by not spending $3.2 billion.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator from Florida yield 5 minutes to the Senator from New Mexico in opposition to the amendment?

Mr. CHILES. I yield.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think I have said it often enough heretofore that I need not repeat it, but I will again.

The distinguished Senator from Texas knows that I have the greatest respect for him and I understand his knowledge of the budget process extremely well, and he is indeed an expert.

Now, Mr. President, having said that, let me just say to the Senators the distinguished Senator from Texas has offered an amendment that sounds innocuous. It sounds simple. He has made it sound sweet as honey. But have no mistakes in any of your minds, it is a killer amendment, not a little amendment, a killer amendment.

If the Senate adopts this amendment, and we have to impose this on the House, and the President of the United States, after the summit conference—my friend from Texas smiles because he knows what the Senator from New Mexico is saying is absolutely right—we upset the agreement on the discretionary accounts of the U.S. Government, including defense, which probably took up 30 to 40 percent of the summit deliberations. We could not get away from discussing these accounts because both Houses have already appropriated. We are 3 months into a year and we both appropriated off a budget resolution that had about 4 percent or 4.5 percent increase.

The actual starting point of the Gramm-Rudman-Hollings cuts provide for a 4.2-percent increase. To achieve cuts below that we argued and we argued and we made a compromise. And as with all the compromises made in that budget summit conference, there are two that are absolutely and unequivocally specific and there is no two ways to get to them, and that is the budget authority and outlays for the defense of our Nation. There is a number in budget authority with a number in outlays for defense. And it saves over $5 billion and the President of the United States gave and gave and gave there, and my friend from Texas says it is not very much. We have saved $5 billion in defense after all those days and the President said yes and the Senator from Texas is saying oh, it is very small, but it is $1.3 billion in outlays more of a reduction. He can talk all he wants about it not being a reduction. It is that much less in defense than we settled on after days and days of discussion with the House Members who wanted less, the President who wanted more, and now my friend from Texas says, oh, it is a simple little amendment, $1.3 billion more in defense cuts.

On the domestic side, we went back and forth with Foreign Affairs and the other items in appropriations and we struck a deal. Those numbers are in the leadership package and the appropriators from both Houses have 1 week, next week, to reach the targets that we agreed upon and staffs are already working with Senators trying to see how are we going to reach those summit targets. Now, my friend from Texas comes down here with a very inviting amendment. It is really not very much, he says, but it is another $1.9 billion in the discretionary nondefense appropriated accounts.

The cut by the Senator from Texas is in addition to the about 3.5 to 3.8 percent cut off the midpoint between the House and Senate bills that we already have passed this year.

Having said that, and the Senator from New Mexico is not one that is normally up here arguing to spend more money, but I do want to get a deficit reduction package through and I can tell you we cannot get this one through. The President will not take it. The House will not take it.

Second, let me suggest that these accounts that my friend from Texas wants to hit again are not the cause of this big deficit anyway. They are going to be growing at less than 2 percent this year and next year. If that is all that was happening to the budget, the tax growth would take care of it. We have reduced these accounts over the last 4 or 5 years in budget authority and this summit deal that we made with the President is a good one.

So I hope that somebody will move to table this amendment. I really do not believe we will accomplish a great deal with it.

My friend from Texas may prove a point, but I believe we will prove a real point. We will prove a point that we can destroy a deficit reduction package over this amount of money because the Senator from Texas says it does not amount to much. It will destroy the package.

If you want to freeze COLA's or go with the Kassebaum 2 percent cost of living that is a different issue than the Senator from Texas' amendment. That is real major structural policy change. I do not agree with it. But this pending amendment is not a structural change. This will just put us back to ground zero in the deficit reduction work we have been so busy at for all these weeks.

I yield the floor.

Mr. STENNIS. Mr. President, will the Senator who controls time in opposition to this amendment yield me 5 minutes?

Mr. FOWLER. Mr. President, as a member of the Budget Committee, I yield the distinguished chairman of the Appropriations Committee 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. STENNIS. Mr. President, the presence of this measure on the floor tonight is highly important.

Just a few of the simple overwhelming facts that guided this economic summit group that was selected in a special assignment and I was the last one perhaps that was selected, but I was asked to serve because of my position on the Appropriations Committee.

Frankly, it was one of the finest experiences that I have had in the years that I have been here. It was a very splendid way. I am not putting this on a personal basis. I have the very highest regard for the Senator from Kansas, a fine colleague who is on this amendment. I have nothing but praise for her.

But this economic summit was the finest demonstration of unified necessity, of moving forward. Those people were Democrats from the House and Republicans from the House, Democrats from the Senate, and Republicans from the Senate. Also there were men there representing the President of the United States, several of them well known by most of the membership and trusted in judgment and in high purposes. Others were there who had been in service here but went over in some other departments.

We had very exceptionally fine, capable men there, the head of one of the departments concerning finances, the Secretary of the Treasury. I did not know him personally, but I found him to be an excellent man in his field of operations where he is specially trained and experienced.

And we went there expecting to be there for 2 weeks. Let me emphasize I played a very small part in this contribution to the end product, but I learned a lot along the way. We were expecting to be there about 2 weeks and it took 4 full weeks, morning and afternoon sessions, and some night sessions; over and over and over again with the most circumspect capabilities of those people that were working there during this period at the expense of neglecting their other official duties.

And there emerged from that group something that looked miraculous to me, from such a very high percent of selection and purpose and trial and error and argument and reargument. Some had said, "Why, this is ridiculous. This will never amount to anything. The President of the United States has already made up his mind and he is not going to give in and change his position enough to make any difference here in results."

After these days of effort, it was presented to the President and he did agree to it, as we all know, and we consummated this thing in just another day and a half.

I have been on this Appropriations Committee a good number of years and have seen a lot of money pass through those channels and also the authorization of that money. But this was one of the finest pieces of work, one of the finest jobs on this subject matter. We have not had anything that equals this effort of the panel and equals what it has put together. This group did one of the very finest jobs that I have seen by anyone. And we have had some excellent men over a long period that I am familiar with, a good number of years.

I would just weep almost to see this thing turned out now and thrown to the wind.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. May I have 2 additional minutes?

Mr. CHILES. I yield the Senator 2 additional minutes.

Mr. STENNIS. I would not know where to turn, and I do not know anyone else who would have such knowledge. I think it has already been looked to. I would not know where to turn or who to turn to if this group—and I take no credit for it myself—if what they say is not considered seriously rather than tossed aside and ridiculed and criticized. We will have been lower than I have ever seen us and lower than we realize, in fact.

Now we must do something about this subject matter. There is no doubt in my mind about that. It has a $1 trillion money mark on it for a 12-month period. I think we should try it out—and then followed in a more firmer path.

I say it is nothing less than a tragedy, not tragedy how anyone votes, but to abandon this purpose now and particularly in a field like this. Where else are we going to turn?

If we are going to abandon this, we ought to take the whole field down and see if we cannot come up with a whole product, a whole plan that will have meaning and will be better than this that we already have before us.

So I submit that, Mr. President, with a firm, not a great knowledge of the subject matter do I claim, but I have some idea about the selection of money for appropriations for a 12-month period.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mrs. KASSEBAUM. Mr. President, will the Senator yield me a couple of minutes?

Mr. CHILES. I yield 2 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Florida.

Mr. President, I rise in opposition to the amendment of the Senator from Texas because he does not really touch on the most difficult part of this budget. About 40 percent will be held separate. And for me, the whole purpose of the endeavor on the freeze package that we have been talking about earlier is to freeze some parts of our budget that we have held separate. With Senator GRAMM's amendment, we really still have not addressed that.

And we have missed an additional $4.2 billion in savings on cost-of-living adjustments on our entitlement programs.

These, Mr. President, are what I think must be addressed and we have to do it in a fair and equitable manner.

So it is a disappointment to me that the Senator from Texas has not included, as a matter of fact, entitlements in his package. It is for that reason, Mr. President, that I will be voting in opposition.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 5 minutes and 57 seconds.

Mr. GRAMM. Mr. President, I yield myself such time as I might use.

Mr. President, this is one of the more remarkable debates that I have heard in many months here. The debate started with one of our colleagues saying that if we did not raise people's marginal rates from 28 percent to 38 percent, that they were not going to have a happy Christmas; that unless their marginal rate of taxes is frozen at 38 percent, rather than being allowed, as we promised them, to decline to 28 percent, that they were going to have a blue Christmas.

Then we heard that if we froze budget authority in discretionary defense accounts that we could not defend the Nation.

Then we heard that if we limited the growth of nondefense discretionary spending, as the pending amendment does, to only 3.5 percent more than what we spent last year, that we could not have the space station, even though that $3.5 billion increase would buy five space stations in terms of the expenditure we are going to have for that project next year.

Then we heard we are not going to be able to protect ourselves from illegal drugs, even though the increase available after adoption of this amendment would fund a tenfold increase in our drug effort.

And then we have heard two of our colleagues make a statement saying they are just terribly disappointed about this amendment because it does not cut enough, it does not cut the right things.

Now, I would like to say to my colleagues that if this amendment does not cut enough, offer another amendment to cut more. In fact, the distinguished Senator from Kansas has such an amendment pending. If it did not freeze marginal tax rates next year at this year's level and abrogate a commitment in tax reform that we made to the working men and women of America, there might be more support for it than there is. But you are going to have an opportunity to vote on that.

If someone wants to offer an amendment dealing with entitlements, offer it and I may vote for it. But I am giving the Senate an opportunity here to save $3.2 billion, not by cutting spending—God forbid we should ever cut any spending; but by simply trying to freeze two aggregate discretionary accounts at the levels we spent this year.

Now, Mr. President, I do not believe that if we fail to raise people's taxes they will have a blue Christmas. I think if we raise their taxes, they are going to have a blue Christmas, at least people where I am from. I do not know people, in some cases, from other parts of the country. Maybe they are different. I do not believe it, but maybe.

I do not believe that saving $3.2 billion out of all the discretionary accounts in the Nation's budget is going to mean that Ivan is going to knock the gate down next year. In fact, some would argue that Ivan is already here; that he has been here all week.

I do not believe that if we simply try to save $3.2 billion out of $1 trillion 46.8 billion, that suddenly we cannot fight drugs or disease or that we cannot have a space program. I believe we can do all those things. I support those programs.

This amendment again is a very straightforward amendment. It may not save as much as some people would like. If so, vote for this and then vote for the addition that you want. But if you vote against this amendment you are saying: I do not want to freeze discretionary spending. And again you can justify it in a lot of ways. But the bottom line is, this is a simple, virtually painless way of simply imposing a little fiscal discipline by freezing discretionary spending at current levels. I do not think that is unreasonable. I hope my colleagues will vote for the amendment and I reserve the balance of my time.

The PRESIDING OFFICER. Who now yields time?

Mr. DOMENICI. Parliamentary inquiry. How much time does the Senator from Texas have on his amendment?

The PRESIDING OFFICER. A minute and twenty seconds.

If neither side yields the time runs equally against both sides.

The Senator from Florida.

Mr. CHILES. Mr. President, I think that we are about ready to wrap up our debate on this. I think I would just state that if we look and see what some of these cuts would be: From the midpoint on where we are between the House and the Senate bill, with the new proposal by Senator GRAMM, Commerce and Justice would be cut 9.7 percent. The other independent agencies, and that is where we already have a tremendous problem with NASA now and the space station, the cuts there would be 4.8 percent. Interior Committee would be cut 10.3 percent from the midpoint of where we are now. The Treasury and Postal, and that is where most of our drug money is, Customs—and the money that we use to fight drugs will be cut 11.3 percent. We already have had Senator NUNN speak about defense and say that the only way they could make the additional cuts in defense which are over $1.2 billion, those cuts would have to come out of personnel.

So I think it is pretty clear, Mr. President, that what we would be talking about here at this stage of the game is, as the Senator from New Mexico said: This is like one of those balls that the wrecking companies use when they want to demolish houses and it is swinging and it will sort of knock down everything that we have been trying to do in putting together a meaningful package of deficit reduction; because of what it would do.

I can remember so well, Mr. President, the hours that we spent in the summit, and literally days talking about 0.1 in defense; lowering it $100 million, and the administration's agonizing over that and what happened to define that change. Now to see that we are talking about this cut, which is 10 times that, more than 10 times that—this would be the wrecker.

Mr. GRAMM. Mr. President, if the distinguished Senator from Florida does not object, I will go ahead and run off my 1 minute while they are conferring.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I would like to go back in light of all of these horror stories and simply relate the facts. If the pending amendment is adopted, we will spend $1.6 billion more on defense next year than we spent this year; we will spend $5.3 billion more on nondefense discretionary programs next year than we spent this year; and the total level of Federal spending will still be 4 percent higher next year than it is this year.

How those facts can be converted into cuts that endanger national defense, that endanger public health, that endanger drug enforcement is hard to imagine. But, of course, if you think people are going to be unhappy at Christmas if we do not raise their taxes, then you can imagine anything, and I yield back the balance of my time.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Florida has 3 minutes remaining. The time is running on the Senator from Florida's time.

Mr. CHILES. How much time does the Senator from Florida have remaining?

The PRESIDING OFFICER. Two minutes and forty seconds.

Mr. CHILES. Mr. President, I yield back the remainder of my time and I move to table the Gramm amendment. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. REID). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida to lay on the table the amendment of the Senator from Texas, amendment number 1260, as modified.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr.

BURDICK], the Senator from Indiana [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—72

Adams	Durenberger	Metzenbaum
Baucus	Exon	Mikulski
Bentsen	Ford	Mitchell
Biden	Fowler	Moynihan
Bingaman	Glenn	Nunn
Boren	Graham	Pell
Bradley	Grassley	Pressler
Breaux	Harkin	Pryor
Bumpers	Hatfield	Quayle
Byrd	Heflin	Reid
Chafee	Heinz	Riegle
Chiles	Hollings	Rockefeller
Cochran	Inouye	Sanford
Cohen	Johnston	Sarbanes
Conrad	Karnes	Sasser
Cranston	Kassebaum	Shelby
D'Amato	Kennedy	Simpson
Danforth	Kerry	Specter
Daschle	Lautenberg	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Lugar	Warner
Dole	Matsunaga	Weicker
Domenici	Melcher	Wirth

NAYS—24

Armstrong	Helms	Packwood
Bond	Humphrey	Proxmire
Boschwitz	Kasten	Roth
Evans	McCain	Rudman
Garn	McClure	Symms
Gramm	McConnell	Thurmond
Hatch	Murkowski	Trible
Hecht	Nickles	Wallop

NOT VOTING—4

Burdick	Simon
Gore	Wilson

So the motion to lay on the table amendment No. 1260, as modified, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Kansas [Mrs. KASSEBAUM]. The yeas and nays have been ordered.

Mr. RIEGLE and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. CHILES. Mr. President, I yield 5 minutes off the bill to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. RIEGLE. I thank the Chair. I thank the Senator from Florida.

I wonder if we could have order in the Chamber.

The PRESIDING OFFICER. The Senate is not in order. The Senate will come to order. Senators will take their seats and refrain from speaking. The Senate will come to order.

The Senator from Michigan is recognized for 5 minutes.

Mr. RIEGLE. I thank the Chair.

Mr. President, it is I think very important for us to recognize that the amendment that will be offered here shortly and voted on, offered by the Senator from Kansas, has contained within it a major cut in Social Security benefits. It comes in the form of a cut in the planned COLA benefit, the cost-of-living adjustment that is scheduled to take effect next year and which of course is a catchup adjustment. In other words, it is an inflation adjustment to make up for buying power that has been already lost because of inflation, the higher cost for items that senior citizens and retirees have to buy in order to live, whether it is utility bills, or medicines, food or shelter, and things of that kind.

We have said many times that there should not be cuts in Social Security in order to try to balance the Federal budget. The reason for that is that the Social Security trust fund is a separately financed trust fund. It is in surplus. It is building a larger and larger surplus each day and by cutting Social Security in any form in order to create a larger surplus in the Social Security trust fund, it is only for the purpose of being able to in a sense hide and allow other spending, higher spending, in the regular categories of the Federal budget.

We should not be tampering with Social Security at all. It is not contributing to the Federal budget deficit. As a matter of fact, over the next 6 years Social Security is going to be contributing, building a surplus of $394 billion. And so to suggest in any way that somehow Social Security is not on a sound footing and we ought to cut the benefits because of the fact we do not have the discipline to deal with other spending categories in the regular part of the budget I think is just a serious error.

Also, I think we have to understand some other things will be happening to those on Social Security come January of this next year. There is scheduled to take effect an increase in the Medicare benefits cost that will be deducted from each Social Security recipient's paycheck. When the automatic deduction from their payment takes effect, that will have the impact of reducing the amount of money that they would otherwise receive. On top of that planned Medicare increase which is already in the law, we have coming down the track a catastrophic health insurance bill, and that will add an additional charge that will go against the checks to be paid out to our Social Security recipients.

So that if in turn we were to add the major cut being proposed by the Senator from Kansas in terms of a major reduction in the planned cost-of-living adjustment, you would have the effect of driving well over 100,000 senior citizens in this country below the poverty line. Those are the official estimates that we have had just from effect of that amendment. But in a sense, it is worse than that, because it is really, in my view, a dishonest accounting trick.

The President to his credit has said keep Social Security off the table. Keep it off the table because it is not contributing to the Federal budget deficit. And therefore you should not go over and somehow damage the Social Security recipient in order to create the appearance of a smaller deficit in the regular categories of the Federal budget.

So I would hope that before Members vote on this they will consider very carefully the part of the so-called Kassebaum package that relates to the cuts in Social Security. Every poll that has been done in this country makes it clear that the public understands that it is a separately financed trust fund, that it is solvent, but it is building a huge surplus, it is not contributing to the deficit, and overwhelmingly people in all parts of the country, both parties, men and women, all groups say that they do not want cuts in Social Security. They understand that that is not the problem with the Federal deficit, and we should not pretend that we are solving the Federal budget deficit problem by taking it out of the hides of the senior citizens of this country.

So I would hope that everyone understands that if they vote for that package they are voting to cut Social Security. Should the packages pass, and I certainly hope that it will not, but should it pass then later on this evening or some time before this bill passes we would have a chance to vote precisely on that Social Security cut because I think we ought to have a record vote. Everybody ought to have to step up to the plate on that one if they feel Social Security benefits should be cut. But I would hope we would not face that moment because we would defeat the Kassebaum amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOMENICI. Mr. President, I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 minutes.

Mrs. KASSEBAUM Mr. President, I want to say there is not a Member of this body who is not appreciative of the efforts of those who helped formulate this leadership package. It is bound to have been an extremely difficult package to put together. But there is a strong bipartisan group of us here that believe that there is an opportunity to touch part of the budget that has been held off limits, approximately 40 percent of the budget. We have a budget that reflects revenues that come in and spending that goes out. It reflects different types of trust funds. But it reflects what we are as a nation, and I happen to feel, Mr. President, that no special-interest group really wants to be held up in the glare of the spotlight and say no, you cannot do anything that is going to be difficult for us. We are not cutting anyone. We are merely not allowing a raise.

It is merely a freeze and an equitable one, because when people who are receiving Social Security benefits say, "Yes, but how is it affecting you," I can say it is affecting me on the revenue side, because we are freezing the tax program, and the tax levels will not lower for 1 year, either, and I cannot take advantage of a reduced tax rate. That is the balance that is important.

No, it is not a masterful deficit reduction package. We are going to need to sort through the priorities and options that will come next year. But for 1 year we have a major saving that will be reflected in future years, because we have held the baseline at a lower level.

That is why I say to those who negotiated the leadership package that ours will be successful in the outyears. We have been willing to address the entitlement programs and hold that base level, so that there is a cumulative effect of savings that is still more than is in the leadership package.

Before I close, Mr. President, I would like to add that I think it gives us an opportunity to do something now that will enable us to build in the future, because we do have needs that have to be met, and it is going to be very difficult for us in the next 2 years to adjust our spending and adjust our revenues. This is why I feel it is such an opportunity for us. It is time for us to show that we can put things on hold with the savings that will benefit everyone, and allow us in the future to address our needs and our priorities as we feel they must be addressed.

Mr. President, I yield back any time I have remaining.

Mr. CHILES. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 25, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—71

Adams	Grassley	Moynihan
Armstrong	Harkin	Nickles
Bentsen	Hatch	Packwood
Bingaman	Hatfield	Pell
Bond	Hecht	Proxmire
Boschwitz	Heflin	Pryor
Bradley	Heinz	Quayle
Breaux	Helms	Reid
Byrd	Humphrey	Riegle
Chafee	Inouye	Rockefeller
Chiles	Johnston	Roth
Cochran	Kasten	Sanford
Cohen	Kennedy	Sarbanes
Cranston	Kerry	Sasser
Danforth	Lautenberg	Shelby
DeConcini	Leahy	Specter
Dole	Lugar	Stafford
Domenici	Matsunaga	Stennis
Durenberger	McCain	Stevens
Ford	McConnell	Symms
Garn	Melcher	Thurmond
Glenn	Metzenbaum	Trible
Graham	Mikulski	Warner
Gramm	Mitchell	

NAYS—25

Baucus	Evans	Nunn
Biden	Exon	Pressler
Boren	Fowler	Rudman
Bumpers	Hollings	Simpson
Conrad	Karnes	Wallop
D'Amato	Kassebaum	Weicker
Daschle	Levin	Wirth
Dixon	McClure	
Dodd	Murkowski	

NOT VOTING—4

Burdick	Simon
Gore	Wilson

So the motion to table the amendment (No. 1259) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate is not in order. Those Senators who do not have business pending before the Senate, please move their conversations to the cloakroom. The Senate will be in order.

The majority leader.

Mr. BYRD. Mr. President, if I might have the attention of all Senators, this would be a good time to get an understanding as to how many amendments remain. The Senate is going to finish this bill tonight.

There are 5 hours remaining on the bill. The minority leader and I are going to yield back 1 hour each, so that means we have 3 hours left on the bill.

It would be fair to Senators who are going to call up amendments if we could get unanimous consent to cut the time under the rule in half, at least, on amendments. The time on amendments is 1 hour on second-degree amendments, 2 hours on first-degree amendments.

Now, here is the way this will play: Unless we get unanimous consent to balance out the time on all amendments, we only have 3 hours. The first Senator who gets recognized and calls up his amendment will get the time under the rule. If it is a second-degree amendment, he will get 1 hour. That only leaves 2. The next Senator who stands up and gets recognition on his amendment gets 1 hour on the second-degree amendment or, if it is a first-degree amendment, he gets 2 hours. Those who did not get recognized and who still have amendments will not get any.

So I will ask unanimous consent that the time on amendments be reduced to 30 minutes on any amendment, with the time to be equally divided in accordance with the rule and, Mr. President, subject to the additional provision that no budget points of order be waived.

Mr. DANFORTH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I would like very much to cooperate with the majority leader. I will have an amendment which I think will be controversial and I am sure it will be contested by Senator HOLLINGS. Several Senators have indicated that they would like to speak on my side of it.

I do not intend to belabor the issue, but I do think it would take about a half an hour to the side.

Mr. BYRD. Very well. That is one of the most controversial amendments, I know.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I revise my request as follows: That there be 1 hour on the amendment to which the Senator has alluded, to be equally divided in accordance with the rule, and that time on any other amendment be limited to 20 minutes, the time to be equally divided in accordance with the rule; and time on any debatable motion be limited to 10 minutes, time to be equally divided in accordance

with the usual form; and protecting all budget points of order.

Mr. DANFORTH. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, it may be that, instead of offering an amendment, I will instead make a motion to strike. So I would like it understood that that would be included.

Mr. BYRD. That would be an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Reserving the right to object, do I understand a regular amendment would have 10 minutes on a side?

Mr. DOLE. Yes.

Mr. PRESSLER. That is fine with me.

The PRESIDING OFFICER. Are there objections?

Mr. GLENN. Reserving the right to object, could we have some idea of what the amendment is about? Some of us are not aware of what the controversial amendment will be.

Mr. DOLE. The fairness doctrine.

Mr. DANFORTH. This is the amendment dealing with title I of the underlying bill which imposes the transfer fee on radio and television stations, codifies the fairness doctrine, imposes Coast Guard user fees, and creates a trust fund for public broadcasting.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, as I understand it we will each yield back an hour at this time.

Mr. BYRD. Yes.

Mr. DOLE. I yield back 1 hour on this side.

The PRESIDING OFFICER. The two leaders having each yielded back 1 hour of their time, that leaves the remaining time of 3 hours and 3 minutes remaining.

Mr. BYRD. Mr. President, I thank all of our colleagues for their consideration and cooperation in this regard.

I have one additional plea, and that is that, as you can see, there are not many amendments going to be adopted here tonight in this package. It would be well if Senators could restrain themselves from calling for rollcall votes on some of these amendments. Senators know the amendments are not going to be adopted and it is just going to prolong the agony.

So if Senators would be willing to call up their amendments, have a voice vote on them, and let the Senate work its will that way—any Senator, of course, has the right to ask for the yeas and nays, but the yeas and nays take a minimum of 15 minutes.

I ask unanimous consent that the time on rollcall votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. This would save a half an hour on three rollcalls.

Mr. PACKWOOD. Mr. President, will the leader respond to a question?

Mr. BYRD. Yes.

Mr. PACKWOOD. If we will finish tonight, is it your plan to go to the CR tomorrow?

Mr. BYRD. Yes.

Mr. PACKWOOD. And hopefully finish tomorrow, if we can?

Mr. BYRD. Hopefully.

Mr. PACKWOOD. And, if not, you are going to go on Saturday or skip Saturday and go to Monday?

Mr. BYRD. No.

Mr. PACKWOOD. You are going to go Saturday on the CR?

Mr. BYRD. Yes. I say that so that all Senators will understand that, in an effort to go home and get everybody out of town before the week of Christmas, which is the week after next, the CR has to go to conference, the reconciliation bill has to go to conference, there may be some extended discussions in conferences, the conference reports have to come back from the two Houses, have to be accepted, sent to the President, and the President has to have his signature on them before we go home or he can assure us he is going to sign them.

So this means we have to be here Saturday and we may have to be here the next Saturday. But, because of the kind of cooperation we are getting here tonight, hopefully we will not have to be here next Saturday. And as soon as we have final action on these two measures, we are going to go home, whether it is Saturday, Friday, or Thursday.

I hope that Senators will cooperate to the very greatest extent.

Let me say this: In appreciation for the cooperation of Senators, the two leaders have decided that, if we continue to get this cooperation, instead of coming back on the 19th of January, we will come back on the 25th of January.

I thank all Senators.

The PRESIDING OFFICER. Are there any further amendments?

The Senator from South Dakota.

AMENDMENT NO. 1261

(Purpose: To clarify the recovery of excess cash reserved from guaranty agencies provision)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] for himself, Mr. PELL, Mr. WARNER, Mr. STAFFORD, Mr. TRIBLE, Mr. DASCHLE, Mr. MELCHER, and Mr. ROTH, proposes an amendment numbered 1261 to amendment No. 1254.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 422(e)(1) of the Higher Education Act of 1965, as added by section 6101(a) of the amendment, strike out "or" at the end of subparagraph (D), strike out the period at the end of subparagraph (E) and insert in lieu thereof a semicolon and "or", and add at the end thereof the following:

"(F) the amount required to comply with reserve requirements and other obligations of contracts, as in effect on June 30, 1987.".

Mr. PRESSLER. Mr. President, since coming to Congress in 1975, I have supported balancing the Federal budget. It is unfair for us to burden future generations of taxpayers with such an enormous deficit. However, I also believe that the cuts should be made across the board without eliminating important services. For this reason, I am deeply concerned about a provision in the budget agreement that would require guaranty agencies of the Guaranteed Student Loan Program to reduce their excess cash reserves. I rise today to offer an amendment to correct this problem and would like to take this opportunity to explain it to my colleagues.

The current summit proposal contemplates cutting the Guaranteed Student Loan Program by $250 million. This would be done primarily by requiring guaranty agencies to spend down or reduce their existing reserves to a level which is determined by one of five guidelines established by the General Accounting Office. The guaranty agency for my State, the Education Assistance Corporation, would have to spend down $6,447,161 in addition to $2,292,918 which it being asked to return as a result of the 1986 amendments to the Higher Education Act would make a total return of $8,739,079. This would leave EAC with a reserve level of 0.4 percent. Currently, it has reserve level of 3.2 percent.

Under the budget agreement, it appears that EAC would be forced to stop guaranteeing loans to maintain its ability to meet existing legal and financial obligations. The level of reserves provided for under this proposal would not permit EAC to meet its existing contractual obligations with lenders, which include maintaining minimum reserve levels, and thus expose itself to almost certain litigation. In addition, with this reduced reserve level, EAC would be unable to continue providing services to students, schools, and lenders which are necessary to operate a successful program. Even though EAC has managed to keep a low default rate and has been conservative in its financial oper-

ations, it would be forced to operate with an inadequate reserve level. In essence, EAC would be penalized for its efficient operation of the type of program which Congress envisioned in the Higher Education Act.

The Education Assistance Corporation operates an exemplary program which provides a tremendous service to students, schools, and lending institutions. It provides ongoing training and technical assistance to school financial aid officers and the loan officers from the participating lending institutions. Students can expect EAC to process their loan applications within 24 hours. Upon inception in 1979, the Education Assistance Corporation was required by the Department of Education to put in writing a plan whereby EAC would assure 100 percent access to all eligible students. EAC has, at all time, kept this promise. The guaranty agency for my State provides many addional services, and at the same time enjoys a low default rate.

It also is important to note that services to students have improved as a result of the establishment of the Education Assistance Corporation. Before EAC was founded, there were few if any services provided to schools and lenders. Turn-around time for processing guaranteed student loans took at least 6 to 8 weeks. Additionally, the annual volume of federally insured student loans [FISL] made by South Dakota lenders was less than $12 million. The limited lender participation resulted from lack of support from the Federal Government in training and technical assistance, and from poor service. The first 9 months that EAC was in business, it guaranteed over $18 million in student loans. EAC's annual loan volume is approximately $50 million. Currently, its accumulative guarantee volume approximately is $408 million. Additionally, EAC has contracts with over 200 lenders. For these reasons, I find it extremely unfair that EAC is forced to comply with the proposed maximum reserve limitations set by GAO.

Additionally, I want to make it clear that if this amendment is defeated under no circumstances would it adversely affect a guaranty agency's ability to appeal to the Secretary of Education. Currently, the budget agreement contains an exception for guaranty agencies required by State law to maintain a minimum reserve level. The purpose of my amendment is to apply the same type of exception for guaranty agencies required by contract to maintain a minimum reserve level.

I do not quarrel with the current exception for minimum reserve levels required by State law. To the contrary, it makes good sense. The problem is that this same exception is not afforded to guaranty agencies which are contractually required to maintain a minimum reserve level. Guaranty agencies must be permitted to maintain reserves which will be adequate to satisfy its contractual obligations, which include minimum reserve requirement. Because the principle sources of income received by guaranty agencies are received at the time a loan is guaranteed, cash reserves are required to not only meet current cash needs, but also future expenses relating to its existing portfolios. Decreasing loan volume for example, would severely impact a guaranty agency's source of income. It would not however, decrease its obligations as a guaranty agency which include making guarantee payments to lender providing preclaims and other default prevention assistance and other loan collection activities with respect to its existing portfolios. Lenders must be assured that a guaranty agency can meet such future obligations with respect to existing loans regardless of its ability to guaranty new loans. These reserves, like those required by State law for many of the State agencies, are based on prudent business decisions. They insure EAC's ability to honor its guarantees to the participating lending institutions.

If my proposal is accepted, it is expected that EAC would be able to continue to honor its contracts with lenders.

It still would be able to demonstrate to lenders its financial stability through its maintenance of an adequate reserve fund. Most importantly, if my proposal is accepted, the students of South Dakota would continue to have access to postsecondary educational funding.

Again, I rise today to express my extreme disapproval of the reduction in reserve levels for guaranty agencies as contemplated in the budget agreement package. My State is being penalized for operating a top-notch business. It has one of the lowest default rates in the Nation. If EAC is forced to reduce its Federal reserve level to 0.4 percent, it may stop guaranteeing loans to students. I do not think the budget agreement intended to decrease students' access to guaranteed student loans. However, that is what will happen if my proposal is not accepted. My amendment simply provides an exception for guarantee agencies required by contract to maintain a minimum reserve level.

If this provision becomes law, the guaranty agencies for my State and others will be devastated. It appears that the Education Assistance Corporation, which guarantees student loans in my State, would be forced to stop doing business. This would be a grave injustice to South Dakota students. So, today, I rise to express my opposition to this proposal and to urge my colleagues to support this amendment which would at least protect guaranty agencies' contractual agreements and obligations with lenders.

The PRESIDING OFFICER. Is there further debate? Who yields time?

Mr. PRESSLER. Shall I ask for the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CHILES. A voice vote would be acceptable.

Mr. PRESSLER. Will you vote for it?

Mr. CHILES. I think I might.

Mr. PRESSLER. Mr. President, I think we have the votes to win this, very frankly. We have seven cosponsors from a broad spectrum. If my colleagues will accept it, I will not ask for a rollcall vote.

Mr. CHILES. Does the Senator wish to use his remaining time?

Mr. PRESSLER. No.

I certainly do not wish to take the time of the Senate for a rollcall vote. Because I have seven cosponsors, I would have to ask for a rollcall vote if it is not acceptable.

Mr. CHILES. We would have to have a rollcall under the circumstances.

Mr. President, the amendment by the Senator I think is unnecessary and redundant. It would add language instructing the Secretary of Education to consider contractual obligations when determining the amount of excess cash a guaranty agency holds in reserve. The appeal process already provided in the student loan section of this bill would allow guaranty agencies to receive a waiver, in whole or part, from spend-down requirements as determined by the Secretary of Education.

So, if an agency can demonstrate that depleting its cash reserve to a level determined by the Secretary would cause it to violate legal obligations necessary to guarantee student loans, the appeal section would provide relief.

Now, some guaranty agencies also operate secondary market financial institutions that compete to buy and/or service student loans. Secondary markets issue bonds to raise capital necessary to purchase student loans. Some agencies operating secondary markets commit to maintaining their cash reserves at a specified level in contracts with bondholders. So, what is happening is the U.S. Government is losing interest because of these excess reserves that are being held by the guaranty agencies.

In turn, some of those guaranty agencies are using that interest and, therefore, entering into the secondary market where they are selling or servicing student loans. Congress has never set that program up. Many States do not do that. This amendment would cost some $70 million and

it would make us fall short of the summit agreement.

Therefore, at the proper time, I intend to raise the budget point of order and ask the Chair to rule on that point.

Mr. PRESSLER. Mr. President, the chairman of the education subcommittee supports this amendment. Perhaps the Senator from Florida will give him a minute of time from his side.

Mr. CHILES. I am happy to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise in support of the amendment offered by the Senator from South Dakota, Mr. PRESSLER.

I am very seriously concerned over the potential impact of the changes in the GSL Program contained in the leadership package. It could well threaten the viability of several of our State guaranty agencies, as well as discourage the participation of lenders in the GSL Program.

In my own home State of Rhode Island, for instance, I am told that this provision would place our State agency in a very precarious position, and one that might eventually pull them under. The income the agency derives from its reserves is the difference between the agency's ability to operate in the red or the black.

This situation, as I understand it, is repeated in at least a dozen other States. The amendment proposed by the Senator from South Dakota would afford some protection for these agencies by adding a sixth guideline to the leadership proposal in this area. It would allow an agency to retain sufficient funds to meet the reserve requirements and other obligations of contracts that are already in effect. This would make clear that such contracts already negotiated and signed would continue in effect, thus providing those States with sufficient reserves to continue their important work in the GSL Program.

I would also like to make it clear that whatever the outcome of the vote on this amendment, it will not affect the provisions in the leadership package that enable an agency to make an adverse circumstances appeal to the Secretary of Education.

Mr. President, I urge my collegues to join me in supporting the Pressler amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield me 1 minute?

Mr. CHILES. Yes.

Mr. DOMENICI. Mr. President, many of us have concerns about this provision but there is an appeals process built into it. It was intended to take care of the principal problem raised by the Senators who support the amendment.

I think we ought to leave the amendment in the bill. We have time to go to conference. If our appeals process does not take care of the contractual obligations that States are concerned about, that they may have contractual obligations that preclude a lowering of the reserve, we can work it out in conference to make sure the appeal process gives them that assistance. I hope that Senate will not take this out of the package but will leave it in. It is subject to a point of order.

Mr. WARNER. Mr. President, I have been advised by the Virginia State Education Assistance Authority of the devastating effect the deficit reduction summit agreement may have on the operation of the Guaranteed Student Loan Program in my State.

Under the proposal recommended by the budget summit, student loan guarantee agencies will be asked to spend down $250 million of their reserves, money which in my State have been carefully and prudently built up over 25 years. The proposal is patently unfair to the Commonwealth of Virginia.

States which have been the best managers, those with the lowest default rates, the lowest student guarantee fees, and the lowest Federal Government obligations are being asked to sacrifice the benefits and results of their labors.

Virginia, with reserves of $37.1 million, would be required to spend down $29.9 million, the largest payment of any State, amounting to 13 percent of the total required savings. It is incredible that this burden would be placed on any State and, in particular, Virginia, which only guarantees 1 percent of annual student loan volume nationally.

Mr. President, to further stress the unfairness of the proposal, let me share how the spend down would be applied. Of the 50 States, the District of Columbia and our territories, 50 percent of savings would be required from only 10 States, D.C., and Puerto Rico. An additional 13 States would be responsible for 25 to 50 percent, and 13 others would pay less than 25 percent.

Of the remaining 15 States, no requirement would be made. I repeat, 15 States would not be asked to contribute to deficit reduction under education entitlements.

Mr. President, where is the shared sacrifice in this proposal? Where is the equity? And on what grounds?

The Higher Education Act Amendments of 1986 directed the General Accounting Office, GAO, to establish guidelines for the repayment of Federal seed money previously provided to the State student loan agencies. The Commonwealth of Virginia repaid its obligation in 1984. The GAO has further established the guidelines for this proposal, without, I might add, the benefit of review or comment by the Senate Labor and Human Resources Subcommittee on Education, our own in-house experts on the fundamental operation of the Guaranteed Student Loan Program.

Beyond that, to my knowledge, several State agencies have tried to ascertain the source of GAO's standards in this matter. By what measure have they determined what minimum levels of reserve funding are needed? There has been a total disregard for contractual agreements and reserves which may have been obligated for the backing of bonds. Indeed, reserve levels may be reduced to such a point that increased risk will cause lendors to refuse to enter into agreements.

Mr. President, I fear that my State is faced with a fait accompli on this proposal. Alternatives presented by the National Governors Association have been regarded as unacceptable. The budget summit agreement has been an enormous effort, and I clearly recognize the hard work and contributions of the participants. I must protest this provision, however, and strongly request that a more equitable solution be included if the measure ultimately goes to conference.

Mr. President, I rise to join as an original cosponsor of the amendment offered by my colleague from South Dakota, Senator PRESSLER, to prevent the spend-down of guaranteed student loan reserves below contractually agreed minimums.

As I have previously stated, under the deficit reduction summit agreement, the Virginia State Education Assistance Authority will be asked to contribute $29.9 million in savings, the largest monetary amount of any State and 13 percent of the total $250 million reduction required under education entitlements.

Senator PRESSLER, with the support of our Education Subcommittee chairman, Senator PELL, has developed this amendment to address one of the principal failings of the guaranteed student loan reserve spend-down proposal. That problem involves the quandary State agencies will be facing if reserves are spent down below contractual agreements. I am advised that the budget agreement does respect minimum reserve levels required by State law, but it makes no allowance for contractual minimums agreed upon by our State guarantee agencies and lenders.

The State Education Assistance Authority of Virginia has endorsed the Pressler amendment as a means of relief from the full and, in my opinion, punitive effects of the spend-down proposal. In this way, Virginia and other States can honor their agreements with student loan lenders and avoid actions which would most certainly be fiscally damaging and harm-

ful to otherwise creditworthy student loan programs.

I commend Senator PRESSLER for this timely and necessary amendment and encourage all of my colleagues to join in this effort.

The PRESIDING OFFICER. Who yields time? The Senator from Florida.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

Mr. President, pursuant to section 310(d) of the Congressional Budget Act, I raise a point of order against the amendment. The adoption of the amendment would result in an increase in the deficit.

The PRESIDING OFFICER. No time remains.

The Senator from Florida has raised a point of order.

The Senator from South Dakota.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I move to waive the Budget Act on this point.

The PRESIDING OFFICER. The Senator from South Dakota has moved to waive the Budget Act. The motion is debatable for 10 minutes, equally divided. Who yields time?

Mr. CHILES. Mr. President, I yield back all of my time.

Mr. PRESSLER. Mr. President, I ask for the yeas and nays.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. No time remains. The Senator from South Dakota has asked for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Dakota to waive the provisions of the Budget Act. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 23, nays 72, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—23

Biden	Helms	Sarbanes
Chafee	Kennedy	Stafford
Conrad	Lugar	Symms
Danforth	McClure	Thurmond
Daschle	Melcher	Trible
Durenberger	Pell	Warner
Glenn	Pressler	Weicker
Hatch	Roth	

NAYS—72

Adams	Fowler	Metzenbaum
Armstrong	Garn	Mikulski
Baucus	Graham	Mitchell
Bentsen	Gramm	Moynihan
Bingaman	Grassley	Murkowski
Bond	Harkin	Nickles
Boren	Hatfield	Nunn
Boschwitz	Hecht	Packwood
Bradley	Heflin	Proxmire
Breaux	Heinz	Pryor
Bumpers	Hollings	Quayle
Byrd	Humphrey	Reid
Chiles	Inouye	Riegle
Cochran	Johnston	Rockefeller
Cohen	Karnes	Rudman
Cranston	Kassebaum	Sanford
D'Amato	Kasten	Sasser
Dixon	Kerry	Shelby
Dodd	Lautenberg	Simpson
Dole	Leahy	Specter
Domenici	Levin	Stennis
Evans	Matsunaga	Stevens
Exon	McCain	Wallop
Ford	McConnell	Wirth

NOT VOTING—5

Burdick	Gore	Wilson
DeConcini	Simon	

The PRESIDING OFFICER. On rollcall No. 406, the motion to waive the Budget Act, the yeas are 23, the nays are 72. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. CHILES. I move to reconsider the vote by which the motion was rejected.

Mr. DOMENICI. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, if there is no further amendment to the leadership package, then I think we could proceed to a vote.

The PRESIDING OFFICER. Are there further amendments? The Senator from Montana.

Mr. MELCHER. Mr. President, we have had a situation developing for the past several months that affects the senior citizens on Medicare. And it has to do with part B of Medicare.

The PRESIDING OFFICER. Who yields to the Senator from Montana?

The Senator from Florida?

Mr. CHILES. Did the Senator from Montana propose an amendment?

The PRESIDING OFFICER. He has not sent an amendment to the desk.

Mr. CHILES. I would be happy to yield time to the Senator from Montana.

AMENDMENT NO. 1262

(Purpose: To provide for a reduction in the medicare part B premium to prevent the amount of such premium from exceeding the maximum prescribed by law and to further reduce such premium by eliminating amounts targeted to the contingency reserve fund)

The PRESIDING OFFICER. The Senator from Montana.

The Senator from Montana has submitted an amendment to the desk.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 1262 to Amendment No. 1254.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 4023 of the amendment, strike "Section" and insert in lieu thereof "(a) IN GENERAL.—Section" and add at the end thereof the following new subsection:

(b) ADJUSTMENTS IN PREMIUM.—Notwithstanding any other provisions of law, the Secretary of Health and Human Services shall, not later than April 1, 1988—

(1) reduce (in accordance with section 1839(e) of the Social Security Act) the amount of the premium under part B of title XVIII of such Act, otherwise in effect for 1988, to reflect the total amount of reductions in the benefits payable under such part for such year occurring by reasons of the amendments made by this Act; and

(2) further reduce such premium by an amount equal to the difference between the amount of such premium (as reduced by paragraph (1)) and the amount of such premium (as so reduced) if established without regard to amounts allocated to the contingency reserve fund.

The PRESIDING OFFICER. The Senate will be in order. Those who do not have business on the floor will please adjourn to the cloakroom.

The Senator from Montana.

Mr. MELCHER. Mr. President, under current law those on Medicare for part B are faced beginning January 1 with an increase in Medicare cost of $6.90 per month. That is almost $7 per month. That announcement was made at the end of September.

Since that time, older Americans on fixed incomes and very modest incomes have been alarmed. It is a case of too much at one time. Prior to this, the increases in Medicare have been rather modest amounts, at least compared to this for part B costs.

The Aging Committee hearing we held in November found that the $6.90 increase per month would cause some elderly to choose between other necessities and paying the additional charge.

The amendment I have sent to the desk would reduce the charges by approximately $2.40 per month. That still leaves a substantial increase for the elderly, $4.50 a month. Keep in

mind that the reconciliation package before us reduces part B expenditures by a total of about $500 million. Since 25 percent of the part B program is paid for by beneficiaries, I feel there should be a proportional reduction for beneficiaries when Federal expenditures are reduced. So, about 40 cents of the reduction would come from the proportional reduction in costs to beneficiaries.

The other $2 per month premium reduction simply comes out of the contingency portion of the part B Medicare Trust Fund.

I do not argue that it is not essential to build up the contingency portion of the part B fund. I am just arguing at this stage that this should be foregone for the time being until part B costs can be reduced.

Even under my amendment, the elderly would have to pay for an almost $5 per month increase in their monthly part B premium. There are plenty of elderly, I suppose, who are affluent and can easily pay for this increase. But our findings in the committee have shown that the great majority of the elderly are living on incomes ranging from $400 to $800 per month. When you are living on that type of income per month, an extra cost of $5 a month collected by Uncle Sam is a pretty big chunk out of your pocketbook.

So, Mr. President, and my colleagues, what I am asking here is a little understanding and a little compassion for the elderly who are strapped into a position of fixed income and who must maintain their part B Medicare coverage. Have some consideration for them, have some fairness, and let's not permit this much of an escalation in their monthly premiums.

I wish we could do more. I am sure there will be many on the floor who say we should not do even this much. I do not believe that anybody should be so pressed to pay for their Medicare part B premiums that they then will have to give up adequate nutrition or forego the few little pleasures that they might have in their retirement.

So I ask that you consider the amendment and make it part of the package.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Yes. I am delighted to yield.

Mr. BENTSEN addressed the Chair.

Mr. BUMPERS. I would like to ask a question.

The PRESIDING OFFICER. The Senator from Texas is withholding time.

Mr. BENTSEN. I yield 5 minutes to myself.

Mr. BUMPERS. Mr. President, the Senator from Montana controls the time on his amendment. He just yielded to me for a question on his time.

Mr. BENTSEN. I defer to the distinguished Senator.

The PRESIDING OFFICER. I thought the Senator from Arkansas was asking for recognition. Was he asking for recognition for a question?

The Senator from Arkansas.

Mr. BENTSEN. I am delighted to defer to the Senator from Arkansas.

Mr. BUMPERS. I have just a quick question, if the Senator will indulge me. I wanted to ask the Senator from Montana to make sure I understand this. Is this 25 percent less $1.90?

Is that what it amounts to?

Mr. MELCHER. Under part B the people on Medicare must pay 25 percent of the cost of part B. The Treasury pays the other 75 percent. The $6.90 increase that the people on Medicare must pay comes out of their own pocket.

Mr. BUMPERS. Is the $6.90 a part of the 25 percent? They pay a maximum of 25 percent?

Mr. MELCHER. That is right.

Mr. BUMPERS. $6.90 is an increase this year?

Mr. MELCHER. $6.90 is the increase for the premium beginning in January. Under current law the $17.90 that Medicare beneficiaries now pay will increase to $24.80 in January.

Mr. BUMPERS. So your amendment is just simply a $1.90 reduction from the 25 percent, whatever that is?

Mr. MELCHER. That is right.

Mr. BUMPERS. Is this just a reduction that comes out of the Social Security Trust Fund?

Mr. MELCHER. It would just mean that the part B trust fund would not build up as rapidly. There is about $6 billion in the trust fund at this time. The law requires that you build that up, implement that in establishing the $6.90.

I am just saying that is too big a bite at one time, and we should hold it to five, and the contingency fund will not build up.

Mr. BUMPERS. How much does the Senator's amendment cost?

Mr. MELCHER. About $464 million—in that neighborhood.

Mr. BUMPERS. I thank the Senator.

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

Mr. President, I am sympathetic to the issue raised by the Senator from Montana. An increase in the Medicare premium of 38.5 percent is an enormous increase, and I understand the burden it creates.

However, such an increase is not out of line with what has happened in other health services, for example, with Federal employees there was a 40-percent increase.

One of the reasons for this is that the contingency fund was used in the past to reduce this year's premium, but the actuaries did not anticipate the kind of increase that occurred in physicians' services during 1987. When the premium for 1988 was calculated, there was not as much money available in the reserves as had originally been projected so it was necessary to increase the premium by an unprecedented 38 percent.

Severely reducing the contingency fund would get us into the same kind of trap again. So I must strongly resist the amendment.

The CBO figures we have on this proposed state that will cost over a half-billion dollars a year, and obviously it violates the summit agreement and violates the requirements of the budget. Of course, it is subject to a point of order.

I want to assure the distinguished Senator that when we go into the conference, I will be pleased to see what we can do to buy the premium down some. We will work with the House conferees, to the extent we can because it is my objective, just as it is his, to protect the elderly and disabled from abrupt increases in the Medicare premium. But I want to be sure that we do not violate the budget requirements. I would commit to try to restrain the premium increase, if the Senator would withdraw his amendment. Otherwise, I will have to make a point of order.

Mr. MELCHER. Mr. President, will the chairman yield to me, to respond?

Mr. BENTSEN. I yield on the Senator's time.

The PRESIDING OFFICER. The Senator from Montana is recognized for 41 seconds.

Mr. BENTSEN. How much time do I have?

The PRESIDING OFFICER. Seven minutes and fifty-nine seconds.

Mr. BENTSEN. I yield a couple of minutes to the Senator.

Mr. MELCHER. I thank the Senator for his graciousness and for his comments.

I well realize that the chairman and the rest of us in this Chamber are alarmed at the 38.5-percent increase. That is a pretty steep climb for 1 year.

With the understanding that the chairman will attempt in conference to get a reduction, I withdraw my amendment. I commend the chairman for his comments, and I know of his willingness to work on this.

The PRESIDING OFFICER. The Senator has withdrawn his amendment.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Montana for his cooperation, and assure him that we will do all we can. I understand what an extreme increase that is, and whatever we can accomplish in a responsible way, we will try to do it.

Mr. MELCHER. I thank the chairman.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. MELCHER. Mr. President, I would like to take a few moments to express my concerns about the budget reconciliation bill we will be asked to vote on tonight. My concerns reflect the concerns of millions of this Nation's finest citizens—its elderly.

In their youth, it was their idealism, their determination and their sweat that helped make this country the great Nation it is today. When their country called, they answered.

But now, in their retirement years, they are calling out to their nation. And the question is: Will their nation answer?

Quite simply, the cost of growing old is soaring. Many of our elderly are being flattened financially by the costs of growing old—costs like prescription drugs, doctor bills, basic services, and even funerals.

These fine folks aren't demanding handouts. Rather, they simply are seeking minimal assistance to live out their lives with quiet dignity and in good health.

The special Committee on Aging has been working toward that goal on a number of fronts this year. And many of those areas are addressed in this reconciliation bill. I'd like to outline a few of them.

HOME HEALTH CARE

During two hearings by the Special Committee on Aging into home-health-care services for the elderly, we found that quality assurance is virtually nonexistent under the various Federal programs that provide for home care services. In addition, the fragmentation of funding sources results in a fragmentation of services.

The distressing result is that those who need home care services the most frequently are the least able to obtain it.

In a few weeks, the committee will publish a report on access to and quality of home care. And I'm happy to note that several of the problems detailed in the report are addressed in this reconciliation bill.

One problem we identify in the report is that there currently is nowhere for a home care client to turn to report poor or abusive care. That will change under the reconciliation bill. It provides for a toll-free hotline and investigative unit so home care clients and their families can check on the rating of a Medicare certified home care agency, make inquiries or file complaints.

Another problem we found centers around the "conditions of compliance" that home health agencies must meet if they want to be paid under the Medicare and Medicaid programs. Too frequently, the committee found only paper compliance with these conditions.

The reconciliation bill expands the current conditions of participation with several new requirements, including:

Protection and promotion of a "Patient Bill of Rights."

Requiring home-health agencies to notify State licensing agencies regarding certain hiring decisions and any changes of ownership.

Training programs must meet certain minimum standards.

Inclusion of a home-care plan in a patient's clinical record.

In addition, the reconciliation bill requires a survey of each participating home health agency with 15 months to evaluate the quality of care and determine how well the agency is observing the patient bill of rights.

Historically, home-health agencies that haven't met the Medicare conditions of participation simply were terminated. I'm not convinced that is the proper course of action in all cases. And the reconciliation bill reflects this thinking by providing for intermediate sanctions to give these agencies the opportunity to correct their deficiencies, get their house in order and get back into compliance.

This reconciliation bill provides several additional steps to help solve some of the many problems surrounding the home-health-care industry. And I commend the leadership of the Budget and Finance Committees for their fine work in including these important requirements.

NURSING HOME QUALITY

The Special Committee on Aging has had an active and longstanding oversight role regarding nursing home conditions and quality. This reconciliation bill makes some major revisions in the area of nursing homes to improve quality of care and residents' rights. This legislation also corrects major gaps in the standards for nursing home regulation that had allowed too many marginal and substandard nursing homes to continue operating.

Under this bill, staffing requirements for nurses and social workers have been upgraded. And standards will be established for programs to train and test nurses' aides. This is an absolute must. It is difficult, if not impossible, to assure safe and proper care of nursing home residents without the proper training of those who provide most of the basic, direct care.

Elderly nursing home residents are individuals—each with unique physical, mental, and social problems. Under the reconciliation bill, more accurate assessments of each resident's problems and treatment needs would be required on admission and at least annually afterward. Likewise, all States would be required to screen mentally ill and retarded individuals before admission to determine if they need nursing home care or another more appropriate type of care.

I am pleased that the committee has amended this provision to exclude from this screening requirement persons with Alzheimer's disease or related disorders.

Although many States already have such assessment and screening systems in place, a national standard should help assure that all of our Nation's nursing home residents will be provided higher quality care.

To insure that a nursing home is providing quality care, this bill will add muscle to the process by which States survey facilities. Those facilities in which the health and safety of residents were found to be in danger could, as under current law, lose their Medicare accreditation. Those facilities found to be below standards, but in which life and limb were not in danger, would be subject to intermediate sanctions, such as fines, onsite monitoring or reduced or withheld payments. The sanctions would be lifted when the problem areas were corrected.

This will allow problems to be corrected without forcing nursing homes to shut down and thereby disrupt the care of its residents. It also will help States get tougher against facilities that are chronically substandard.

MEDICARE APPEALS—ADMINISTRATIVE LAW JUDGES

This legislation also contains a provision that prohibits the Secretary of Health and Human Services and the Health Care Financing Administration from changing the procedures for Medicare appeals before administrative law judges. This prohibition will remain in place until the Secretary of HHS and the Comptroller General report to Congress on the implications these changes will bring about.

Last year's Budget Reconciliation Act gave Medicare part B beneficiaries the right to a hearing in front of an administrative law judge when the amount in question is more than $500. However, I have learned that HCFA, in implementing this provision, is requiring beneficiaries to first go through an appeals process with the insurance carrier before they are entitled to the hearing before the administrative law judge. This clearly is not what the Congress intended.

In addition, HCFA wants to establish a separate administrative law judge corps to be headquartered in Baltimore. And it wants to hold hearings by telephone.

Without a doubt, we need to have more information before HCFA is allowed to proceed with its plan. And I'd like to have some assurances from the Secretary and HCFA that Medicare beneficiaries aren't going to be steamrollered in this process.

For this reason, my distinguished colleague from Tennessee, Senator JAMES SASSER, and I have introduced the Medicare Appeal Rights Preservation Act of 1987. This bill, S. 1857, would require the Comptroller General, in consultation with the Secretary of HHS, to study the feasibility of the HCFA proposal of conducting appeals hearing by telephone. And the Comptroller would be required to report his findings to Congress within 6 months.

In our legislation, Senator SASSER and I want the Comptroller to pay particular attention to several issues:

First, the feasibility of conducting telephone hearings, the difficulties they impose on Medicare beneficiaries and the extent to which they have been used under Medicare and other Federal entitlement programs.

Second, the feasibility of establishing a separate corps of administrative law judges for Medicare outside the Social Security Administration, to which they currently report.

Third, the cost of carrier hearings compared with the cost of face-to-face hearings.

And finally, whether hearings under part B in which the amount in question is more than $500 could be handled more appropriately, efficiently, and fairly by requiring either a hearing before the carrier as a precondition of a hearing before an administrative law judge or conducting either hearing by telephone.

Once Congress gets this information, we will be in position to decide whether HCFA should go ahead with its proposal or study alternatives that are more cost effective and more feasible. Above all, it will give us the information we need to insure the due process rights of Medicare beneficiaries are protected.

PERSONAL-NEEDS ALLOWANCE

On August 7 of this year, my good friend from Arkansas, Senator DAVID PRYOR, and I introduced S. 1635, a bill called the SSI Improvements Amendments of 1987. The reason we introduced the bill was because it was obvious to us that the Supplemental Security Income Program is not adequately meeting the needs of the poor elderly, the blind, and the disabled.

I am extremely pleased that the Finance Committee has agreed with us and seen fit to include a number of the provisions of S. 1635 in its budget reconciliation package.

Among the most important of those is a provision to increase the personal needs allowance for nursing home residents. The personal needs allowance is relied upon heavily by nursing home residents for small items not covered by Medicaid. These include such basics as toiletries, postage stamps, clothing, shoes, bus fair, and telephone service.

Seventeen years ago, back when the personal needs allowance was developed, the payment levels were set at $25 a month for an individual and $50 a month for a couple. Surprisingly, it's stayed at those levels ever since. The reconciliation bill would increase the personal needs allowance to $30 for an individual and $60 for a couple. And even though this improvement isn't as great as Senator PRYOR and I would hope, it nonetheless is a good start.

Another provision of this bill will help those who are temporarily institutionalized maintain their SSI eligibility. Under current law, if an SSI recipient is admitted to a Medicaid institution even for a few days, his or her benefit for that entire month is reduced to the level of the personal needs allowance. This cut in income makes it extremely difficult for a person to maintain his or her home.

That possibility would be eased under a provision in the reconciliation bill which would retain full monthly benefits for those who enter Medicaid facilities for temporary stays.

Another important item in the bill provides for the permanent exemption of inkind assistance from consideration as income under SSI and aid to families with dependent children. This is the same issue that produced an enormous outcry of protest in October when the Reagan administration announced a policy which would have reduced benefits for the elderly, blind and disabled who receive free food, shelter, clothing, and other donations from charitable organizations.

Although the administration temporarily has reversed its policy, this reversal will last only for a few more months. And while the Senate already has passed legislation to permanently extend the exemption, this legislation hasn't yet been passed by the House. The House reconciliation bill, however, does include a provision identical to the protection in the bill before us today.

Other provisions of S. 1635 which have been incorporated into the reconciliation bill would:

Increase the advance payments to eligible persons who are faced with an emergency.

Lengthen the period of time during which otherwise eligible individuals residing in public emergency shelters can continue to receive SSI benefits.

Require that blind recipients be sent a special notice of any action taken or proposed with respect to their benefits under the SSI Program.

While not all of the provisions incorporated into the reconciliation bill are as far reaching as those Senator PRYOR and I originally proposed, we still are heartened and commend the Finance Committee for incorporating as much as it has. The changes are decent, fair, and sensible, and they represent a move in the right direction. They not only will increase the fairness of the SSI Program in the short term, but also can be built upon in the future. And they will help ensure that disadvantaged individuals are not denied vital assistance.

RURAL HEALTH

Many of our elderly continue to live in isolated rural areas and small towns and often have transportation problems, so getting to their doctor or to a hospital is vital. I am glad to see the many provisions in the reconciliation package designed to bolster small hospitals, clinics, and physicians in rural areas.

A key item in encouraging physicians to practice in rural, underserved areas is the 5-percent bonus for physician services on claims for which Medicare assignment is accepted. This is a small first step in what I hope will be a continuing effort by Congress to begin building more equity into Medicare physician reimbursement by increasing payments to rural doctors who traditionally have been paid much less than those in urban areas.

The 3.6-percent increase for primary services, including office visits, home visits, nursing home visits, and emergency room visits also is an indirect boost to rural physicians who are more likely to be the family and general practitioners the elderly use the most.

With so many of our small rural hospitals barely surviving financially or on the brink of closure, the 3.7-percent increase to rural hospitals for prospective payment system services in 1988 should help keep more of these hospitals open and accessible to our rural elderly.

Likewise, other provisions designed for immediate and longer range protection and stabilization of rural hospitals, including sole community hospitals and rural referral centers, could be the continuing lifeline for rural health care.

The groundwork for a more rational determination of future payment increases and changes needed in the system will be established through a number of steps. These include extending the protection for interim capital costs and payment adjustments for sole community hospitals, and then requiring the Prospective Payment Assessment Commission [ProPAC] to make recommendations on the separate urban and rural hospital payment system while mandating the Secretary of the Department of Health and Human Services to develop a data base for rural hospitals.

In addition, the establishment of permanent authority for an Office of Rural Health within the Department of Health and Human Services is reassuring to many of us in Congress who represent largely rural areas. We can be hopeful that the Secretary of HHS will get the information and advice needed on the particular effects of current policies and proposed changes in Medicare and Medicaid relating to

the financial viability of rural hospitals and residents access to health care.

This office also will provide rural health care coordination and clearinghouse functions within HHS and across Federal departments. If used effectively, this office could provide the vital focus needed by the administration, Congress, and rural constituents to assure a rational and reachable health care system in our Nation's remote areas.

The PRESIDING OFFICER. Are there amendments?

AGRICULTURE TITLE OF BUDGET RECONCILIATION BILL

Mr. LEAHY. Mr. President, earlier this year, the Agriculture Committee was given budget reconciliation instructions which required savings totaling $1.33 billion from the level of spending expected as of January 1987. Reductions in the amount of spending expected for the 1988 through 1990 fiscal years were required to total $5.838 billion. In addition, the committee was instructed to raise revenues of $7.2 billion through the prepayment of Rural Electrification Administration loans.

The Agriculture Committee met those original targets. However, scored against more recent spending estimates, the original committee proposals did not have the effect of reducing the Federal deficit.

Mr. President, between January and August of this year, projected costs associated with agriculture declined by $9 billion over fiscal years 1988-90. These savings were due, in large measure to programs contained in the 1985 farm bill. In essence, the Agriculture Committee was not given credit by the budget process for programs which are working, programs which are reducing costs, programs which recognize the long-term nature of agriculture, programs which are beginning to restore some health to agriculture.

The reductions in agriculture spending called for in all of the deficit reduction proposals before this body today are in addition to that statutorily mandated reduction.

As the result of the so-called budget summit, a meeting between congressional leaders and the administration, and at the request of the leadership, the committee has now drafted new proposals that provide for a reduction in agriculture spending of approximately $2.5 billion according to current estimates of Federal expenditures for fiscal years 1988 and 1989, and about $60 million in fiscal year 1990. Relative to projections of agricultural spending made in January of this year, the cost of the agricultural programs will now decline by more than $8.9 billion in fiscal years 1988 and 1989 alone.

The agriculture title of this budget package provides for changes in five main farm program areas in order to achieve the requested savings. Income support levels are reduced, acreage reduction programs for feed grains are increased, a whole base bid diversion program that will take additional acres out of production is implemented, and price support loan levels are adjusted, and revenue is generated through the prepayment of Rural Electrification Administration loans.

Mr. President, this package is going to cause pain to our Nation's farmers. This package will in all likelihood reduce their net farm income for the 1988 crop year. We made every effort to keep these cuts at a minimal level. But this Nation's farmers will get cut.

This is not the package I would have had the committee recommend; I don't believe it is the package that Senator LUGAR, the ranking minority member on the committee would have liked to submit. I don't know that any Senator on the committee likes every aspect of this package. I believe, however, that we have drafted a proposal that a majority of the Agriculture Committee can support.

I hope the Senate will support this package, but I will stress that our work does not end here. We will approach the conference with the House on this issue with a single-minded determination. With their cooperation, the final agriculture package will be one that accomplishes the budgetary savings required in a reasonable and sensible manner.

Mr. DURENBERGER. Mr. President, today we will consider the bipartisan budget package that has been developed in conjunction with the President and the House and Senate leadership. Although this is far from a perfect package, it represents a fair compromise that I am willing to support.

As part of this package, the Senate Finance Committee fulfilled the commitment made at the budget summit to come up with a 2-year $23 billion package of tax increases as part of the $76 billion deficit reduction agreement.

The tax package ensures that next year's individual income tax rate cuts will go into effect on time. This maintains the commitment on tax rates that Congress and the President made to the American people last year. In order to fulfill that commitment, I fought against a proposal that would have extended the Medicare payroll tax to all earnings. I am pleased that the committee dropped that proposal.

I would be remiss however, if I did not point out that the tax package does not remedy many of the egregious mistakes that we made in the 1986 tax reform bill. The chairman of the Ways and Means Committee has made it impossible for us to pass this deficit reduction package along with a 600-page technical corrections bill within the 3-week time period remaining this year.

There are many tax provisions that I believe should have been included in this package. However, the committee faced the difficult choice of either adopting a clean stripped-down revenue bill, or risking the possibility that if it included certain revenue-losing provisions, the whole budget package would fall apart.

In my view, the committee made the correct choice in adopting a clean revenue bill. Had the committee failed to come up with a package, I think we would have risked throwing the world's markets into chaos. If we do not pass the budget package quickly, I think we run a serious risk of demonstrating a failure of congressional leadership that could damage our credibility in world financial markets.

Mr. President, this package is an achievement for which the distinguished chairman of the Finance Committee, Senator BENTSEN, deserves enormous credit. In spite of the very stressful and demanding budget deficit environment and weeks of tough negotiations, the leadership and the Finance Committee were able to preserve several basic principles in the package; make important public policy changes, while, at the same time, including provisions that would actually fund modest new programs.

The first principle the committee preserved was that there must be a higher operating cost update for rural hospitals. Since the beginning of the prospective payment system, rural hospitals have been paid less than their urban counterparts. This unfair payment system has contributed to their overall economic frailty. As all of us who represent rural America know, this part of America is still trying to recover from economic devastation.

Rural hospitals have had no other funds to fall back on to compensate for declining revenues, a shrinking tax base and changes in medical practices patterns. Their problems in some areas have reached crisis proportions. While we may not be able, or want, to keep open every hospital in America, we have an obligation and duty to preserve access to health care, especially in rural areas where a hospital may be the only access point. Without these facilities, life and limb are literally at risk. We cannot let that happen. This agreement helps to protect health care in rural America and this Senator is proud to be a part of that effort.

The second principle that the committee incorporated in this agreement is that policy changes are needed and we cannot let the burden of deficit reduction demands stop the Congress entirely from making programmatic and policy changes that are essential to continually improve Medicare and Medicaid. For example, this legislation

includes a small rural hospital transition grants program that is aimed at some of the same rural problems described earlier.

The grant program would assist small rural hospitals in reviewing and assessing their services, in comparison to the community's needs, and help them revise their programs to more closely match the area's requirements. This will ultimately save Medicare money and improve the quality of service by making certain that key services are available, while unneeded ones are retired or consolidated with other health units.

There are also important expansions in Medicaid for covering low income children and pregnant women—an essential national investment—as well as great improvements in nursing home quality. In addition, of particular importance and urgency to this Senator, are beneficiary protections that will ensure that Medicare beneficiaries who choose HMO's will be protected from disenrollment and from being left without coverage if an HMO drops its risk contract.

The third principle the committee preserved was that providers under the Medicare Program who have had low fees for many years would not have their fees reduced at all, or to the same extent as providers whose Medicare fees are above the national median. This is an important issue of equity in the Medicare Program, where all reimbursement, which was designed originally to follow physician usual and customary payment patterns throughout the country, has repeated all of the inequities that existed at the beginning of the Medicare Program. Since the moderate fee physicians—many of whom are in rural areas—have in effect been undercompensated, relative to their peers for years, it seems particularly unfair to compound the inequities by cutting them by the same proportion as their better compensated colleagues.

There are many other very critical provisions in this agreement, which deserve mention, but time is limited. It is worth repeating that the leadership deserves the admiration of all Senators for the achievements represented here. The agreement is responsible, meets deficit reduction targets and makes needed social progress in some policies and programs. I urge my colleagues to support it.

TITLE VII—VETERANS' PROGRAMS

Mr. CRANSTON. Mr. President, as Chairman of the Veterans' Affairs Committee, I have submitted to the distinguished chairman of the Budget Committee [Mr. CHILES], by a letter dated December 3, 1987, three provisions to achieve savings in accordance with the summit agreement on deficit reduction. These provisions, included as title VII of the pending leadership package, are as follows:

WITHOUT-RECOURSE SALES OF VENDEE LOANS

First, the provision in section 2 of the recently enacted Public Law 100-136 which restricts the VA from selling vendee loans without recourse for less than the unpaid balance of the loan, that is, for 100 percent of par value, would be repealed.

Buyers of VA-acquired properties have two options available with respect to financing such purchases. They can pay cash—which they usually will obtain through a loan from a conventional lender—or, if they qualify under the VA's credit-underwriting criteria, the VA will finance the transaction and accept the buyer's promissory note—known as a "vendee loan." For the VA to sell a loan "with recourse" means that the sales agreement includes the VA's promise in the event of default to buy the loan back for an amount equal to the outstanding balance.

A provision to repeal section 2 was also included as section 405 of S. 9, the "Omnibus Veterans' Benefits and Services Improvements Act of 1987", as agreed to by the Senate on December 4 and passed in the form of an amendment in the nature of a substitute for H.R. 2616.

S. 1691, which was enacted as Public Law 100-136, was introduced by Senator MURKOWSKI and myself on September 16 in order to provide 90-day extensions of two provisions—the 1-percent loan fee and the provisions of section 1816(c) of title 38 establishing the "no-bid formula" for determining whether the VA acquires, or does not acquire, at a liquidation sale the property securing a VA-guaranteed loan that is in default—which had September 30, 1987, sunset dates established in section 2512(c)(2) of the Deficit Reduction Act of 1984 (Public Law 98-369).

Mr. President, S. 1691 was introduced as an interim measure, pending enactment of a comprehensive home loan bill, for the purpose of preventing a substantial hiatus in the collection of the fee, which both would have been inequitable to those required to pay the fee before and after the hiatus and would have jeopardized the solvency of the VA's loan guaranty revolving fund [LGRF]. Such a comprehensive bill has now been approved by the Congress, a compromise agreement on S. 1801/H.R. 2672, the "Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987", which was approved by the House on November 17 and the Senate on December 4 and is now awaiting the President's signature. Without the fee, there would be a need for additional appropriations—currently about $20 million per month—to pay the claims of the holders of defaulted VA-guaranteed loans.

On October 1, 1987—the day after the fee and no-bid provisions had expired—the House passed an amended version of S. 1691. The House-passed version provided, in lieu of the 90-day extension, a 46-day extension through November 15, 1987. It also contained a provision to prohibit the VA permanently from selling vendee loans without a repurchase agreement which would make the VA ultimately liable for a subsequent default by the new purchaser, that is, without recourse, unless such loans are sold for par value. The House committee leadership, during debate on S. 1691, indicated that if the short-term extension of the fee were not enacted they would not agree to reinstate it.

Although we were very reluctant to accept this House amendment, Senator MURKOWSKI, our committee's ranking minority member and I, reached the conclusion that it was necessary to do so in order to keep the 1-percent fee alive and perserve the solvency of the LGRF, which secures home loan guaranties. The Senate concurred in the House amendments on October 1, 1987. The President ultimately signed the bill on the last day—October 16, 1987. During this delay, the VA's LGRF lost approximately $10 million.

If the House provision had simply ensured that nonrecourse sales could be made only if the VA obtains fair value for the loans, I could probably have endorsed it. However, as I indicated when the Senate reluctantly accepted the amendment on October 1—in my statement beginning on page S13344 of the RECORD—I believe that it went too far in a number of respects.

The House provision has the effect of prohibiting the VA from selling vendee loans without-recourse. I do not believe such a permanent and rigid limitation on without-recourse sales is good public policy. There is nothing wrong with a without-recourse sale as long as the sale price of the loan is not greatly discounted from what the price would be if the loan were sold "with recourse".

Although I do not agree that an absolute prohibition of without-recourse sales is desirable, I certainly do share the House's concern that the LGRF must be protected against the administration's attempt to provide quick cash for one-time reductions of the budget deficit at the expense of the home loan program and the veterans who benefit from it and to use without-recourse sales as a means of privatizing the program.

It may be that, regardless of the marketing strategies used, the VA would be able to sell vendee loans without recourse only at unacceptable discounts. However, I do not believe that has been demonstrated solely on the basis of the VA's first attempt at such a sale. Rather, the VA—perhaps with the assistance of independent fi-

nancial consultants familiar with such loans sales—needs to develop improved marketing strategies to carry out a fair test of the viability of such sales. Perhaps such methods as overcollateralizing loan sales or reinsuring them privately—both forms of recourse that may be less costly—should be tried by the VA as they were recently tried by the Farmers Home Administration in September.

Accordingly, in S. 1801/H.R. 2672 as passed by the Senate on October 30, Senator MURKOWSKI and I proposed and the Senate adopted an amendment—as section 16 of that bill—to repeal the House provision. We then endeavored to work with our colleagues on the House Veterans' Affairs Committee to seek a compromise which would allow without recourse sales where that would be to the benefit of the LGRF. Unfortunately, we were unable to reach such an agreement in the context of that legislation. I hope we can eventually find a solution that will address the concerns which have been raised in both bodies while allowing the VA to sell vendee loans without recourse when that would be in the best interest of the LGRF. However, our efforts to do this will be greatly impeded by the budget scorekeeping situation which has been imposed upon us by the Congressional Budget Office [CBO] and the Office of Management and Budget [OMB]: that is, that if the VA were to continue its prior policy of selling loans with recourse—the proceeds of which the CBO and the OMB have now decided should be treated as loans to the Government and not as receipts—the deficit would increase by about $1 billion. Hence, it appears that any formula we come up with that would be considered by the CBO or the OMB to result in any with-recourse sales would be scored as increasing Federal outlays.

Mr. President, the CBO estimates that, as measured against the Gramm-Rudman-Hollings [GHR] baseline, this provision would achieve savings in fiscal year 1988 of $611 million in outlays. According to the Senate Budget Committee staff's November 30, 1987, description of the Summit Agreement on Deficit Reduction, the savings in outlays would be $0.8 billion in fiscal year 1988 and $1.0 billion in fiscal year 1989.

LOAN FEE

Mr. President, the second provision in the veterans' programs title would extend the 1-percent VA loan fee for 2 years, through September 30, 1989. The fee extension also is included as section 13 of the compromise agreement on H.R. 2672/S. 1801, which is awaiting the President's signature. For more information regarding the background of and rationale for this provision, I would refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801. (S. Rept. No. 100-204, pp. 41-43)

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $165 million in fiscal year 1988 and $221 million in fiscal year 1989. According to the Budget Committee staff document describing the summit agreement, this provision would achieve savings of $0.2 billion each year.

VENDEE LOAN CEILING

Mr. President, the third provision in the veterans' programs title would generally increase during fiscal years 1988, 1989, and 1990, the proportion of acquired foreclosed properties which the VA is required to sell for cash rather than by vendee loans, from a minimum of 25 percent and maximum of 40 percent to 35 percent and 50 percent, respectively. This provision is included as section 6 of the compromise agreement on H.R. 2672/S. 1801. For more information on the background of and rationale for this provision, I would refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801 (pages 30-31) and my floor statement in the RECORD on December 4 on the compromise agreement on H.R. 2672/S. 1801 (S17385).

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $83 million in fiscal year 1988 and $72 million in fiscal year 1989.

Mr. MATSUNAGA. Mr. President, will the distinguished senior Senator from Arkansas, chairman of the Subcommittee on Public Lands, National Parks and Forests, yield for a question?

Mr. BUMPERS. Certainly, I would be happy to yield to my good friend, the junior Senator from Hawaii.

Mr. MATSUNAGA. Am I correct in assuming that the pending legislation, as amended by the Senate Energy and Natural Resources Committee, codifies the current policy of the National Park Service which bans entrance fees for urban outdoor recreation areas with multiple entrance points?

Mr. BUMPERS. The Senator from Hawaii is correct.

Mr. MATSUNAGA. And is it not also the policy of the Park Service, at certain facilities, not to charge an entrance fee for those who are passing through the park in order to get to a distant point beyond the park, without stopping, where the most practical route necessitates that they do so?

Mr. BUMPERS. That is my understanding. Certainly, the National Park Service has the latitude under provisions of the bill under consideration to do so.

Mr. MATSUNAGA. I thank the chairman of the subcommittee for his clarification. Mr. President, I raise this point, because I have been concerned about how this particular piece of legislation would be implemented by the National Park Service at such facilities as Hawaii Volcanoes National Park, which lies between the city of Hilo on the Island of Hawaii and the island's western "Kona" coast. These concerns were somewhat allayed by a letter I received from Mr. William Penn Mott, Jr., director of the National Park Service, wherein he states, and I quote: "No charge is made for nonrecreational traffic on Highway 11," which is the main artery of travel between Hilo and Kona.

The letter further states "no fees will be charged for nonrecreational use of the park" and gives as examples of such users those who work or volunteer their time at the Volcano Art Center, a community-based facility located with a park concession, personnel assigned to the Kilauea Military Center located in the park, persons visiting residents in the park, and anyone needing access by park road to enter the Royale Gardens subdivision.

Mr. President, I believe the position of the Park Service in this regard to be an enlightened one—indeed, the only practical one, given the community situation at the Volcano National Park, and I am satisfied now that the pending legislation would allow such a position. But because of the great community concern prevailing in regard to the recent imposition of entrance fees, and the fact that we are poised here to make these fees permanent, I submit for the RECORD the letter from the Park Service so that the policy for implementing this particular piece of legislation be explicit in regard to Hawaii Volcanoes National Park.

UNITED STATES DEPARTMENT
OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC

Hon. MARK M. MATSUNAGA,
U.S. Senate, Washington, DC

DEAR SENATOR MATSUNAGA: The U.S. Senate is considering H.R. 1320, legislation to authorize new entrance fees at some areas of the national park system and increase entrance fees at others. We are currently operating an expanded entrance fee program under the FY 87 continuing resolution.

Under H.R. 1320, all the revenues collected will be returned to the national park system to enhance park operations. Under both the House and Senate bills, an estimated $500,000 will go directly back to Hawaii Volcanoes National Park in 1988. This will be a significant addition to the Park's $1.6 million operating budget. The money will be used for resource management, research, or interpretation.

Under a formula set up in the FY 87 continuing resolution, $175,000 returned to Hawaii Volcanoes National Park as part of the fee program. This enabled the park to hire 19 new employees and undertake many needed projects. These include:

1. Increased interpretation at eruption areas.

2. Youth Conservation Corps Resource Management Project.

3. Interpretive walks and talks.

4. Special ecological projects, preserving native vegetation.

5. Feral pig fence construction.

6. Preservation of historic old Volcano House.

7. Maintaining fountain grass control.

8. Hiring biological research technicians for fire pre-planning and fuel modeling.

9. Staffing the new geology museum at Kilauea Summit.

If H.R. 1320 is enacted and Hawaii Volcanoes National Park remains part of the fee program, the Park will have the ability to continue these worthwhile programs, and add new ones they have been unable to fund in the past.

The walk-in fee at Hawaii Volcanoes National Park is $2.00 per person with a limit of $5.00 per family, or $5.00 per car no matter how many passengers are in the car. The permit is valid for 7 days. For the local or frequent user, an annual park pass is also available. The pass costs $15 and admits the permit holder and any accompanying passengers in a private vehicle. Where entry is by other than private vehicle, the pass admits the permit holder, spouse, children, and parents.

There is no charge for children under 13, educational groups, persons 62 years of age and older, persons who are permanently blind or disabled. No fee is charged nor questions asked of those natives coming to the volcano for religious purposes.

No fees will be charged for non-recreational use of the park. This would include those who work or volunteer their time at the Volcano Art Center, persons assigned to the military facilities at KMC, persons visiting residents in the Park, and anyone needing access by park road to the Royale Gardens Subdivision. No charge is made for non-recreational traffic on Highway 11.

The effect of entrance fees is being monitored not only at Hawaii Volcanoes National Park but at all the fee sites to ensure that they are fair and equitable for all. Where fees are having a negative effect on one or more segments of the visiting public, you can be assured that we will make the necessary changes.

Thank you for your concern and the opportunity to clarify our fee program.

Sincerely,

WILLIAM PENN MOTT, Jr.,
Director.

MEMORANDUM

To: Charles Kinney.
From: Jim Martin.
Dated: July 9, 1987.
Subject: Wirth amendment to the Park Fees Bill (H.R. 1320).

Tom Williams of the Public Lands Subcommittee of the Energy and Natural Resources Committee suggested that I forward to you a copy of an amendment that Tim Wirth proposes to offer to H.R. 1320. We have worked with both the minority and majority staff of the Committee in drafting this amendment.

The purpose of the amendment is to provide a mechanism for mitigating the offsite impacts to fish, wildlife, watersheds, and other natural resources associated with development and operation of winter sports sites on National Forest System lands. The amendment will dedicate the permit fees paid by owners of the winter sports sites to mitigate and enhancement of natural resources on the National Forests, without necessity for further appropriation. (This provision is similar to the other provisions of this bill, which make available to the national park system the funds collected from entrance and campground fees.) The Wirth amendment does not change the Forest Service's management of the national forest system lands.

SECTION —

At the appropriate place in the bill, add the following new section:

SEC. . FISH AND WILDLIFE, RECREATION, AND OTHER NATURAL RESOURCE ENHANCEMENT FOR WINTER SPORTS SITES.

(a) That portion of the receipts collected from permits issued for the development and operation of winter sports sites on National Forest System lands that would otherwise be credited to miscellaneous receipts of the Treasury shall, notwithstanding any other provision of law, be deposited into the special account provided for by this section and shall be subject to the terms and conditions applicable to such account.

(b) Notwithstanding any other provision of law, amounts covered into the special account from such permits during each fiscal year shall be available for obligation or expenditure by the Chief, Forest Service, United States Department of Agriculture (hereinafter referred to as the "Chief") for the protection and enhancement of fish and wildlife habitat, recreation, and other natural resources. Amounts covered into the special account during each fiscal year from this source shall be allocated among National Forest System units in accordance with subsection (c) in the first fiscal year after the year in which such funds are covered into the special account. Accounts allocated to a unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

(c) Notwithstanding any other provision of law, the amounts covered into the special account of the Forest Service from this source shall be available for obligation and expenditure by the Chief to be used in such fiscal year for mitigating and enhancing fish and wildlife, recreation, and other natural resources affected, directly or indirectly, by the development and operation of winter sports sites located on units of the national forest system. To the extent possible, the Chief shall allocate funds from this source among units of the National Forest System in such a way as to reflect the contribution to the special account from each unit of the National Forest System.

(d) If the Chief determines, after opportunity for public comment, that all or a portion of the funds covered into the special account are not needed for mitigation and enhancement of fish and wildlife, recreation, and other natural resources affected by winter sports sites, the Chief may use the available funds for mitigation and enhancement of fish and wildlife, recreation, and other natural resources within any unit of the National Forest System: Provided that no more than 20 per centum of the funds available under this subsection may be expended or obligated for expenditure in any one state.

(e) Except as expressly provided herein, nothing in this section shall be construed to affect the management of the National Forests.

CRISIS IN RURAL HEALTH CARE

Mr. HEFLIN. Mr. President, there is a crisis in America's rural communities, a crisis regarding access to quality health care services. The primary focus of many communities' health care, the rural hospital, is in jeopardy of disappearing.

These are hard times for rural America. We have in our part of the country a growing number of the poor, the unemployed, and the elderly. These people depend on their community hospitals. The elderly population in particular is known to absorb a significant amount of health care services. But if these rural hospitals don't get some relief from economic pressures confronting them, they may not be around much longer.

Rural hospitals are the key to a strong rural health care system. In addition to basic acute care, these hospitals are often the locus in their community for home health services, respite care, nursing care, preventive health and well-child clinics, and other health services. They are essential to attracting and retaining physicians and other health professionals in rural areas. Moreover, in most small towns, the local hospital is more than a place to receive health care. The rural hospital is usually among the largest employers in their communities. The local hospital many times acts as the anchor in a community which assures industries that an area is suitable for economic development.

Unfortunately, however, there is growing evidence that rural health care is under severe strain. Many of the Nation's rural hospitals are struggling with inadequate Medicare and Medicaid reimbursement, Federal cost-cutting initiatives, declining admissions, and an increasingly competitive health care environment.

Inadequate reimbursement granted to hospitals for Medicare patients can ultimately raise concerns about quality and access to health care as reduced payment rates force hospitals to cut down on staff and close unprofitable services. This is particularly troublesome for rural hospitals. The possibility of numerous closures is becoming a reality across the country.

Data from the American Hospital Association [AHA] indicate that many of the 2,700 rural hospitals in this country are in severe financial distress; some to the point of anticipated closure. The problem is most severe among small hospitals with less than 50 beds. These facilities serve nearly 95 million people. About 345 of them are their communities' sole source of health care. If one of these facilities were to close, the residents would be greatly disadvantaged in their access to needed health services.

Mr. President, in my own State of Alabama, 70 of the 144 hospitals are rural. The majority of these rural hospitals have less than 50 beds. In addition to having fewer beds, these hospitals treat a higher percentage of pa-

tients who are elderly, people whose illness tend to be more acute, resulting in more costly care. The volume of this type of patient, coupled with the intensity of care required, in turn makes these hospitals much more dependent on the Medicare system for their survival than other hospitals.

In Alabama alone, it is estimated that 12 hospitals will be forced to close their doors over the next year. Ten of those hospitals are located in rural areas. Six additional hospitals have indicated that unless their circumstances dramatically improve they will be out of business by 1988. Those institutions represent nearly a quarter of the rural hospitals in Alabama.

A similar picture is developing nationwide. From 1980 to 1985, of 214 hospitals that closed, 86 were rural. In 1985, there were 49 closings; urban closings slightly outnumbered rural, 28 to 21. But in 1986, 71 community hospitals closed—more than in any other year of this decade—52 percent of these hospitals were in rural areas. Hospitals with fewer than 100 beds accounted for 83 percent of 1986 closures.

Another alarming fact: data from the Alabama Hospital Association indicate that their members located in rural areas experienced an operating loss of 2.44 percent in 1986. In fact, 75 percent of the hospitals in Alabama experienced a loss during that time period; only 25 percent had any kind of operating margin at all. Net income from patients in Alabama hospitals, based on income statements included in Medicare cost reports which were filed by 119 hospitals in the 1986 calendar year, was 1.21 percent of gross patient revenue. Only 48 of the 119 Alabama hospitals analyzed earned an operating profit while 71 incurred net operating losses. The fact is, the average Alabama hospital incurred a loss from services to patients of 3.52 percent for it's 1986 fiscal year.

According to the Prospective Payment Assessment Commission [PROPAC] in its February 1987 annual report to Congress, more than 25 percent of small rural hospitals ended their first prospective payment system [PPS] fiscal year—fiscal year 1984—in the red. The urban margin was a full 7 percent higher than the rural margin. Over one fourth of rural hospitals incurred losses under the system, while few urban hospitals had losses. The hospital which, as an aggregate, had the lowest operating margins, and tended to go into the red most frequently, were those hospitals with less than 50 beds. Of those hospitals, 10 percent had an operating margin deficit of as much as 18.4 percent. The Commission stated in their report: "Financial difficulties of rural hospitals deserve continued attention, especially small rural hospitals, which had the highest proportion of PPS losses of any hospital group."

There are a variety of reasons for the precarious situation in which our rural hospitals find themselves. As compared to their urban counterparts, rural hospitals tend to be smaller, have fewer patients, lower costs, fewer specialized areas, and often serve a population older than average. Rural hospitals treat fewer private-paying patients and treat a disproportionately high percentage of Medicare patients. The dependence on Medicare as a major payment source has become a particular concern since the implementation of the prospective payment system [PPS] in October 1983.

Under PPS, hospitals are paid a fixed price for hospital care provided to Medicare patients based on 468 diagnosis-related groups. However, rural hospitals are paid lower rates than urban hospitals, usually 20-35 percent less, but sometimes as much as 50 percent less. The rationale behind the different rates is that, on average, hospital services provided by rural hospitals cost less than hospital services provided by urban hospitals because urban hospitals often treat sicker patients than rural hospitals.

A payment system like PPS, which is based on averages, just doesn't work for rural hospitals. The system discriminates against these hospitals by paying lower rates for an inpatient service in a rural hospital than paid for the same service in an urban hospital. Because of their small size and the large number of Medicare beneficiaries these hospitals are unable to be compensated adequately for the low Medicare payment provided for each case. They cannot adjust easily to fluctuations in inpatient admissions or case mix, whereas larger hospitals can average the fluctuations from year to year and over many cases.

For small rural hospitals, which tend to operate closer to the margin, these fluctuations can be devastating financially. Because about two-thirds of rural hospital patients are Medicare patients nationwide, compared to about one-third for urban hospitals, rural hospitals are doubly at risk when the payment system fails to compensate them adequately for their special circumstances or when inequities in payment policies exist. Clearly, the implementation of the Medicare PPS has had a tremendous impact on rural institutions.

When the Medicare PPS was enacted, we were not aware of many of the differences between rural and urban hospitals that might adversely effect the financial viability of one group. Since that time, we have made several modifications in the payment formula which have somewhat lessened the severity of the payment differential between urban and rural hospitals. More must be done however, especially on the issue of an adequate and equitable payment increase for fiscal year 1988.

Congress is currently debating the amount of payment increase hospitals will receive from Medicare for fiscal year 1988. I am pleased that the Senate Finance Committee has approved a budget package that includes a payment increase to rural hospitals of 3.7 percent effective January 1, 1988. This is quite an improvement over the rate of increase recommendations made by the administration.

Under current law, both the Secretary of Health and Human Services [HHS] and the Prospective Payment Assessment Commission [PROPAC] are required to report to Congress with their recommendations for an appropriate fiscal year 1988 payment increase. The Secretary recommended an increase of 0.75 percent for PPS hospitals and 1.9 percent for PPS-exempt hospitals. However, PROPAC, a nonpartisan panel of healthcare financial experts, recommended increases of 2.2 percent for urban hospitals, 3.0 percent for rural hospitals, and 4.4 percent for PPS-exempt hospitals.

The Senate budget package contains a number of other provisions that will go far in ensuring that rural hospitals get their fair share of Medicare funds. The package directs that: the Health Care Financing Administration [HCFA] must issue explicit criteria for issuing a volume adjustment for sole community providers; HCFA must publish an impact analysis of any Medicare or Medicaid regulation that affects rural hospitals; HHS must establish an Office of Rural Health Policy to advise Congress on the effects of current and proposed policies on rural hospitals; HCFA must set aside at least 10 percent of research funds for projects related to rural health issues; PROPAC must report on the feasibility of phasing out separate PPS rates for rural and urban hospitals; HCFA must study revisions in the PPS wage index to better account for variations in each hospital's occupational mix; and HHS is to report whether or not rural hospitals are getting their fair share of outlier payments.

The Senate budget package also provides that the eligibility threshold for rural referral center status under PPS would be reduced to 3,000 discharges per year (from the current criteria of 5,000 annual discharges) for rural hospitals with a case mix index that exceeds both the regional and national medians for urban nonteaching hospitals.

The Senate budget package will also allow certain rural counties bordering on cities to be determined as part of the urban area for purposes of Medicare reimbursement. Those rural coun-

ties from which at least 15 percent of workers commute into all adjacent Metropolitan Statistical Areas [MSA's] or at least 20 percent of workers commute in either direction from all adjacent MSA's will be considered an outlying county of the MSA of choice. This particular provision will help seven hospitals in Morgan and Lawrence Counties, AL to qualify for the higher urban rate rather than the lower rural rate.

Another critical issue faced by our rural hospitals is the recruitment and retention of qualified physicians, mostly generalists and family practitioners. Although the total number of U.S. physicians may be sufficient for the Nation, there are shortages in many rural areas. Studies have shown that when a small, rural hospital closes, the community often loses its physicians and has difficulty attracting new ones because doctors often will not practice in an area without a hospital. Many rural hospitals contend that they must pay as much for qualified hospital staff as do nearby urban hospitals since they both draw from the same geographic labor pool. Rural hospitals in remote areas argue that they sometimes must pay higher than normal salaries to attract specialized staff such as intensive care nurses to their community. This intensifies the problem of making health care services locally accessible.

The Senate budget package calls for a payment increase for physician services rendered in underserved rural areas after January 1, 1989. An additional payment of 5 percent would be added to the amount Medicare pays the physician, if the physician accepts Medicare assignment on the claim. I believe that these payment incentives represent a good start in helping hospitals in rural areas attract and retain qualified health care personnel and in preserving access to health care by Medicare beneficiaries.

While these provisions offer some relief, serious shortcomings in the system remain. The diagnosis related grouping [DRG] payment system is inadequate in terms of volume fluctuations, the discrepancy between urban and rural rates, the updating factor, an outlier policy, and access to postacute services. Despite special treatment, sole community provider hospitals remain at risk; changes in costs related to case mix need to be recognized as does admissions declines, and modifications in community demand. As solutions are applied to these problems, they must recognize the burdens of administrative paperwork and cash flow for small, rural hospitals.

There are several provisions under current law which recognize the special characteristics of rural hospitals. Changes included in the Sixth Omnibus Budget Reconciliation Act of 1986 (SOBRA, Public Law 99-509) went further in addressing the special needs of rural hospitals. These provisions offer some relief, but more can and must be done if the restructuring of health care in rural areas is to proceed in a manner that offers the potential to contain costs, but still provide reasonable access to adequate health care by all Medicare beneficiaries regardless of where they reside.

In conclusion Mr. President, small, rural hospitals have responded to the changes in the health care financing system in many ways. To cut costs, they have closed unused beds, laid off unnecessary staff, reduced the time patients are hospitalized and increased outpatient services. However, many small, rural hospitals will have difficulty making further cuts without reducing necessary services. Hospital budgets have already been cut so slim that continued demands for cost reductions could affect quality of care. Cost-cutting alone is not the answer to long-term financial viability for rural hospitals.

There is no one strategy or solution to these problems. Provisions of the Senate budget bill are necessary and will be of help. However, foremost in our minds should be the need to study equity concerns of small or rural hospitals with respect to the Medicare prospective pricing system and other financial constraints that inhibit such hospitals' ability to provide needed health care services to their communities. PROPAC recommended that "Medicare payment policies need to be thoroughly evaluated to ensure that they do not inadvertently place rural hospitals at a disadvantage and jeopardize access to hospital care for Medicare beneficiaries."

Action is needed now to alleviate the current crisis in our rural health care industry—a crisis that threatens the viability of many of our rural hospitals. Further adjustments to the system must be made to build upon current law and further address the needs of rural hospitals. We must do all that we can to insure that our citizens in rural communities will have access to these services in the future.

AN ADMIRABLE BEGINNING

Mr. PROXMIRE. Mr. President, I am going to support the leadership package. It is not perfect, but no budget package will ever meet that test. It will, however, give us some time, and right now that is what we need.

What do I like about this package? First of all, it is enforcable. The numbers in this package stand a reasonable chance of being accurate. Most budgets we deal with are filled with false hopes and assumptions. They are pious declarations of intent. This package goes beyond intent and contains some binding limits on defense and domestic spending.

Second, those limits are good for 2 years, and will last through 1988, an election year. During an election year, the administration and Congress have an unfortunate habit of passing a supplemental money bill during the spring of an election year. This bill is filled with "goodies" for those facing a tough election or those who sit on the "right" committees. Under the terms of this agreement, passing such a supplemental will take 60 votes in the Senate. That will not be an easy task, even during an election year.

Third, this agreement is fair. It increases taxes, a little. It reduces defense spending, a little. And it cuts projected domestic spending, again a little. Taxes go up by $23 billion, defense takes a $13 billion reduction, and discretionary domestic spending is reduced about $9 billion.

Fourth, this amendment leaves Social Security alone. This Senator is unalterably opposed to using a mercilessly regressive payroll tax—to pay for Social Security and nothing else—to balance the budget. This tax is already running a $38 billion surplus. Without it, the deficit in 1988 would be $38 higher. Is that not enough of a contribution for Social Security to make? Under these circumstances we should not fundametally change the nature of the most successful social program the Federal Government has ever developed.

What do I dislike about this amendment? It does not make enough of a reduction in the deficit. Some have argued that to reduce the deficit more we must cut Social Security payments. What a red herring. Suppose the administration had offered the Congress the following challenge: We know, and you know, that the domestic budget contains a lot of pork. We have identified over 40 programs which on objective evidence should be eliminated. Here's the challenge: For every $1 the Congress is willing to cut from these programs, we—the administration—are willing to cut an equal amount from defense.

Freezing the Social Security COLA for 1 year would save about $6 billion in 1988. Merely eliminating the domestic programs identified by the administration would save $4 billion. If that could be matched on the defense side, we would have a savings of about $8 billion—$2 billion more than a COLA freeze. The deficit would be lower, and the budget would be a more efficient, equitable document.

Mr. President, this Nation is going to face a recession sometime in the future. This package will delay that day of reckoning. It is this Senator's hope that after the 1988 election, a new administration and a new Congress will be able to do more, and that the economy will give us that amount of time.

Mr. SHELBY. Mr. President, I rise today to join my colleagues in the debate of the Budget Reconciliation Act. I would like to commend the Senate Finance Committee on their refusal to join with the House of Representatives in several provisions that will wound corporate America.

Specifically, I disapprove of the provision in the House Ways and Means package which would limit the interest deduction for debt incurred in connection with a corporate acquisition. This provision would render uneconomic hundreds of friendly acquisitions that save and create jobs. This would impact companies that are not only contributing to the real economic growth in this country but also providing vital national services and products.

Consider for example, Kinder-Care Learning Centers, today a very successful national chain of daycare centers. This concern is relatively young and its incredible success and broad expansion is in part due to tax laws that encourage such growth. The provisions in the House tax reconciliation package would discourage future success stories of this type.

Another objectionable provision is that that would change the tax treatment of the market discount on taxable and tax-exempt bonds. This House provision would force investors to pay an immediate tax on gains they may never receive. It could cause a massive drop in bond prices, potentially costing investors billions of dollars.

The most incredible consequence of this bill is that it would force the Federal Government, industrial companies, and municipalities to pay higher coupon rates to investors to compensate them for the accelerated tax liability. Our economy would not benefit from increasing the cost of capital for growth companies and it is ludicrous to increase the Federal cost of borrowing in a deficit reduction bill.

Finally, I believe that the provision which would reduce the dividends received deduction to 75 percent and deny it outright to most classes of preferred. This would wipe out the ability of American companies to issue preferred stock, which is an important way to raise capital for many industrial, financial, and utility companies. Our companies need flexibility and creativity at their disposal to beat foreign competitors. It is counterproductive to increase their cost of capital and limit their flexibility.

In short, I oppose these shortsighted provisions that the House included in their tax bill. I commend my Senate colleagues for their wisdom in refusing to do the same and I urge them to hold firmly to this position in conference.

Mr. BRADLEY. Mr. President, I am pleased that the Senate is acting to make selected cuts to meet the Gramm-Rudman targets rather than let across-the-board cuts take effect. I do not support each and every provision in this reconciliation bill, but it is clearly better for the country than the across-the-board cuts mandated by Gramm-Rudman. The bill will reduce the 1988 deficit by roughly $24 billion and the 1989 deficit by roughly $28 billion. When the continuing resolution is adopted, total savings from these two bills will equal $34 billion in 1988 and $46 billion in 1989.

Mr. President, there are many sizable budget reductions included in the bill now before us. For example, funding for urban hospitals will be cut significantly. And reimbursement for laboratory services and various medical procedures is cut dramatically. But this bill also contains a number of provisions that I believe will improve our health care system in New Jersey and the Nation.

First and foremost, Mr. President, this bill contains the key components of S. 422, the Infant Mortality Amendments of 1987, which Congressman WAXMAN and I introduced earlier this year. The bill before us allows States to provide health care under the Medicaid program for potentially 350,000 more pregnant women and almost 800,000 mothers and their infants up to age 1. It does so by expanding the Medicaid eligibility limits and enabling States to charge a monthly premium of $5 to families with incomes between 130 and 160 percent of the Federal poverty level. In addition, this bill gives health care to children up through the age of 6 who are poor enough to meet the aid to families with dependent children [AFDC] income and asset standards, but who are not eligible for AFDC payments for other reasons. States would be given the option to provide their coverage to children through age 8.

Mr. President, we frequently talk about the chain of problems facing our poor. We also know how critical prenatal care and pediatric care for infants is to growing up healthy and strong. Inadequate prenatal care frequently results in low-birth-weight infants. If these low-birth-weight infants survive, they experience a much higher rate of health problems in the future. If ever there was a place for us to intervene, this is it. We can have an impact on our citizens, giving them a chance to be the best they can be from the very beginning. The human costs and the dollar costs are too high, not to extend prenatal care and health services to pregnant women, infants, and young children.

Second, Mr. President, this bill contains a number of home-care quality provisions from S. 1076, the Medicare Home Health Services Improvement Act. Very little attention has been placed at the Federal level on the quality of care that home-care agencies provide. The evaluation of quality of care has focused on the home-care agency's organizational form, its facilities and equipment, its staff's credentials, and its fiscal management. These standards tend to measure an agency's capacity to deliver services rather than the quality of the services actually provided. In addition, Medicare conditions of participation contain no home health aide training or proficiency. Home health aides are unlicensed workers who provide homemaker, personal support, companion, and other health-related services to home-care patients. Despite their wide range of responsibilities, these providers often receive litttle or no formal training.

The provisions in this bill would strengthen Federal quality monitoring by requiring HCFA to establish a revised certification survey that focuses on the quality of patient care and the effect of that care on the patient. This would ensure that the capacity to deliver care actually translated into the provisions of high-quality care. Rights for home-care consumers would be established and quality monitoring surveys of home-care agencies would be conducted annually and unannounced. Intermediate sanctions for poor quality would also be established, including civil fines and denial of Medicare reimbursement for future Medicare patients.

In addition, States would be required to establish hotlines for receiving consumer complaints about home care as well as a central authority to investigate complaints. This authority would have enforcement powers and access to consumer medical records and survey reports. The appeals of denials of coverage for home care would also be expedited. Finally, employees of home-care agencies, including home health aides, would be required to complete a training program that is approved by the Secretary of HHS. The bill also requires HCFA to make public all of its homecare policies so that home-care providers and consumers can better understand HCFA's coverage policies.

Mr. President, a third key provision increases the number of children that can be served under the Model Waiver Program. Section 2176 of the Omnibus Budget Reconciliation Act of 1981 enabled States to seek waivers to furnish home and community-based services to individuals who otherwise would be institutionalized. There are two types of waivers for which States may apply; the regular waiver, which is primarily for the elderly and disabled, and the model waiver request. The model waivers attract the most severely disabled individuals, those who do not meet the eligibility and service requirements of regular waivers; a large percentage are severely disabled children who should be discharged from hospitals if serv-

ices could be made available in the home.

When the model waiver was developed, each State was limited to granting services to 50 persons. This is clearly too low a level; model waivers are frequently filled in some States, including New Jersey. I am pleased that this bill requires HCFA to raise the 50-case maximum to 200. States would still have the option of serving less. This would allow States like New Jersey to expand existing successful programs without added administrative costs.

Finally, Mr. President, the bill before us provides an exemption from Federal regulations that would have prevented the State of New Jersey from operating a health maintenance organization. The exemption is necessary to enable the State to receive Federal Medicaid matching funds, thereby allowing continuation and expansion of the Garden State Health Plan, which provides cost-efficient quality health care to low-income New Jerseyans.

It is anticipated that within a year the Garden State Health Plan will expand to serve 20,000 New Jerseyans and double to 40,000 recipients within 2 years. New Jersey will receive an estimated $10 million in Federal funds next year for the project.

Medicaid recipients often have trouble receiving health care services. The Garden State Health Plan will improve access to health services while still maintaining a high level of quality care. Since HMO's can provide care in a cost-effective manner, it is anticipated that this program will save the Federal and State government about $5 million next year.

In sum, Mr. President, the bill before us reduces the deficits and shifts funds from lower priority programs to higher priority programs. It includes several key initiatives that I believe will improve our health care system. I urge support for the legislation.

SOYBEAN MARKETING LOAN

Mr. HEFLIN. Mr. President, I am very pleased that a Marketing Loan Program for soybeans is included in the agricultural portion of this budget reconciliation package. This program is not a totally new program. In 1985, I sponsored an amendment to the farm bill which granted the Secretary of Agriculture authority to implement a marketing loan for soybeans. This amendment was adopted and became a part of the Food Security Act of 1985. My amendment gave discretionary authority to the Secretary of Agriculture to implement the marketing loan for soybeans. Thus far, the Secretary has refused to exercise that authority despite the overwhelming evidence of the merits of a Marketing Loan Program as shown by the cotton and rice marketing loans.

The marketing loan language included in this package would require the Secretary of Agriculture to implement a marketing loan for the 1988 and 1989 crops of soybeans. Amendments to existing law to accomplish these changes are contained in the package. Thus with these changes the section would contain the following:

TITLE VIII—SOYBEANS

SOYBEAN PRICE SUPPORT

SEC. 801. Effective only for the 1986 through 1990 crops of soybeans, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) inserting "soybeans," after "tung nuts," in the first sentence; and

(2) adding at the end thereof the following new subsection:

"(i)(1)(A) The Secretary shall support the price of soybeans through loans and purchases in each of the 1986 through 1990 marketing years as provided in this subsection.

"(B) The support price for the 1986 and 1987 crops of soybeans shall be $5.02 per bushel.

"(C) The support price for each of the 1988 through 1990 crops of soybeans shall be established at a level equal to 75 percent of the simple average price received by producers for soybeans in the preceding 5 marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the level of price support may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel.

"(2) If the Secretary determines that the level of loans or purchases computed for a marketing year under paragraph (1) would discourage the exportation of soybeans and cause excessive stocks of soybeans in the United States, the Secretary may reduce the level of loans and purchases for soybeans for the marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for soybeans, except that the level of loans and purchases may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel. Any reduction in the loan and purchase level for soybeans under this paragraph shall not be considered in determining the loan and purchase level for soybeans for subsequent years.

"(3)(A) The Secretary may for each of the 1986, 1987 and 1990 crops of soybeans, and shall, for each of 1988 and 1989 crops of soybeans, permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the prevailing world market price for soybeans, as determined by the Secretary.

"(A) The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for soybeans; and

"(ii) a mechanism by which the Secretary shall periodically announce the prevailing world market price for soybeans.

"(4) For purposes of this subsection the soybean marketing year is the 12-month period beginning on September 1 and ending on August 31.

"(5)(A) The Secretary shall make a preliminary announcement of the level of price support for soybeans for a marketing year not earlier than 30 days before the beginning of the marketing year. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(B) The Secretary shall make a final announcement of such level as soon as complete information and statistics are available on prices for the 5 years preceding the beginning of the marketing year. Such final level of support may not be announced later than October 1 of the marketing year with respect to which the announcement is made. The final level of support may not be less than the level of support provided for in the preliminary announcement.

"(6) Notwithstanding any other provision of law—

"(A) the Secretary shall not require participation in any production adjustment program for soybeans or any other commodity as a condition of eligibility for price support for soybeans;

"(B) the Secretary shall not permit the planting of soybeans for harvest on reduced acreage or acreage set aside or diverted from production under any other Federal Government program;

"(C) the Secretary may not authorize payments to producers to cover the cost of storing soybeans; and

"(D) soybeans may not be considered an eligible commodity for any reserve program.".

Mr. President, let me emphasize that this budget reconciliation package does not alter the soybean loan rate as established by the Secretary of Agriculture. Let me also emphasize that this package does not change or alter the loan floor of $4.50 per bushel as set forth in section 201(i)(1)(C) of this title. The loan floor remains intact.

Under the marketing loan, farmers who take out a Commodity Credit Corporation loan on their soybeans will have the option of repaying the loans at either the loan rate or the prevailing world market price, whichever is lower. Obviously, if the world market price is above the loan rate, farmers will choose to repay their loans and sell their crops into the market for the higher price.

In the event world market prices are depressed, the Marketing Loan Program will prevent our loan program from becoming a floor under world prices. Today, the Soybean Program, with its nonrecourse loan, serves as a protective guaranteed price umbrella for foreign competitors which is encouraging tremendous soybean production overseas. This situation is hurting soybean farmers throughout the Nation.

With a marketing loan, U.S. soybeans will be available on the world market at the same price as that offered by foreign competitors. No longer will American soybean farmers be the supplier of last resort during times of surplus and depressed prices.

Soybean farmers all across the Nation want and need a marketing loan. During the past years they have seen U.S. soybean acreage decline by over 17 percent from 71.4 million acres in 1979 to only 58.7 million acres in

1987. During this time, when U.S. soybean acreage has declined by over 12 million acres, soybean acreage outside the United States has expanded by over 15 million acres.

U.S. soybean acreage has declined because of the low soybean prices that have characterized most of this decade, because of the higher income protection afforded other U.S. crops, and because of the Conservation Reserve Program.

Soybean production outside the United States has expanded because of the protective umbrella afforded them by the U.S. Non-Recourse Soybean Loan Program. Under our current Non-Recourse Loan Program the Commodity Credit Corporation effectively prevents cash soybean prices here and around the world from falling below our loan rate. It does this by assuming ownership of all soybeans placed under loan in the United States that are not redeemed by farmers because cash soybean prices are below the cost of the redeeming the soybeans from the loan.

Thus, the United States effectively becomes the world's storehouse for all surplus production while our foreign competitors sell their soybeans onto the world market.

Soybean farmers in South America absolutely love our current Non-Recourse Soybean Loan Program because it limits their downside price risk. They know the U.S. Non-Recourse Loan Program will keep world prices from falling below the loan rate. Because of this protection, farmers in Brazil and Argentina can invest the money necessary to clear pastureland to plant soybeans without the risk of world market prices falling below their break even price.

In fact, because of the South American soybean harvest occurring roughly 6 months after our harvest, our loan program has the effect of guaranteeing South American farmers a higher price than it does our farmers. This is a classic example of an ineffective, misguided, and destructive U.S. policy.

A marketing loan for soybeans will change and improve this situation. Under a marketing loan the Commodity Credit Corporation will no longer assume ownership of our soybeans during periods of oversupply and low prices. Instead, farmers will take out a CCC loan on their soybeans, repay the loans at the world price, and sell the soybeans into the world market. Our farmers will receive the income protection of the loan rate but our soybeans will be exported rather than stored. No longer will Brazilian and Argentine investors have the benefit of United States price protection to reduce their risks. No doubt the higher risk will cause many South American investors to seek a less risky place to invest their money than in soybean production. Instead they will have no protection and assume all of the risks of the volatile world market.

I anticipate that the Soybean Marketing Loan Program will help the United States compete head to head with foreign producers and help regain U.S. market share. I believe that it will come to the aid of the U.S. soybean farmer. And, I am hopeful that it will once and for all take the U.S. Government out of the soybean storage business.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, one of the most controversial and, in my view, questionable revenue raisers in the leadership deficit reduction package is the one which requires employers to pay Social Security or FICA taxes on tips received by employees. It seemed to be with great reluctance that this provision was included and only when it became clear there were no other tax increases the administration would accept or the Finance Committee could agree on at that time.

Nevertheless, I believe, as do many of my colleagues, that the FICA tax on tip income is bad tax policy and bad budget policy. How can it be fair or proper policy to assess an employer payroll tax on nonpayroll income? This is income received directly by an employee from a customer. The employer has no control over the amount of this income or whether it is even reported as income by the employee. Past legislative history has recognized this and specifically excluded tip income from the definition of wages subject to employer-paid Social Security tax.

Furthermore, Mr. President, how can it be proper budget policy for the Senate to be raising Social Security taxes for the purpose of reducing the overall Federal budget deficit? These funds are not needed for the Social Security Program. If they were, we might have considered this issue when we wrote the Social Security Amendments of 1983. But we did not. What we are doing here is no different and no better than cutting selected Social Security benefits in order to cut the deficit in the operating funds of the Federal Government.

Under normal circumstances, which don't seem to exist around here this year, raising Social Security taxes in a budget reconciliation bill would subject the whole package to a point of order.

Mr. President, my purpose here is not to try to cause parliamentary problems or any other difficulty for this deficit reduction exercise. It is of utmost importance that we pass this bill, and I especially want to commend Senator BENTSEN for his effective leadership in fulfilling the Finance Committee's obligations under terms of the budget summit agreement.

I would like to inquire of the chairman, however, if he would consider a strategy in conference where he might be willing to drop the FICA tax on tips provision if other revenue increases, possibly from the House package, can be adopted in its place.

Mr. BENTSEN. Mr. President, I want to thank the Senator for raising this difficult issue. He is correct that the FICA tax on tips was one of the more controversial issues during our markup session and we were all reminded of this many times by our restaurant industry constituents.

Putting aside further discussion of the merits of this tax, let me point out that the reconciliation bill passed by the House also contains a FICA tax on tips provision. Unless the House conferees were willing to back away from their position it would be extremely difficult to change it at this time. However, I surely would not preclude making appropriate changes in the provision if that is the prevailing sentiment among the House and Senate conferees.

Mr. CHAFEE. Mr. President, I thank the chairman of the Finance Committee for his willingness to reconsider this issue, and I know the restaurateurs in his State would be as grateful as those in mine if we could accomplish some changes here.

As the chairman well knows, restaurateurs have been subject to a number of adverse tax changes in recent years, including the cumbersome tip reporting system and the 20-percent reduction in the business meal deduction. Furthermore, it strikes me as completely inequitable for the Government to attribute tip income to the employer for payroll purposes, but deny that it is wages or remuneration for employment for purposes such as meeting the requirements of the minimum wage. The Government ought not to be able to play heads, I win, tails you lose with its laws.

Restaurateurs who are mostly smaller, independent operators, will be forced to change payroll accounting for possibly millions of employees when this legislation takes effect 3 short weeks from now. The National Restaurant Association tells me it could cost a medium-size restaurant over $10,000 a year to pay this new tax. With many companies midway through their fiscal year and with such a short time between congressional action and the January 1 effective date, it would seem reasonable at a bare minimum that we delay the effective date if we can't find a way to drop it altogether.

I thank the chairman for his consideration of this issue and urge him to pursue whatever options are available to him to convert this situation.

Mr. RIEGLE. Mr. President, I would like to engage the distinguished Chairman of the Finance Committee, Mr. BENTSEN, in a colloquy.

Mr. President, the mortgage credit certificate (MCC) program was enacted by Congress in 1983 to complement the mortgage revenue bond (MRB) program in assisting first-time buyers. Like MRB's, MCC's are issued by State and local housing agencies to provide financial assistance to first-time home buyers. With an MCC, a homeowner may take a credit each year against his or her liability for a portion of the mortgage interest. Lenders view this credit as additional income and are thus able to lower the income level required for a borrower to qualify for a home.

Since their introduction, my home State of Michigan has achieved great success in the use of mortgage credit certificates. Among the other States to have experimented with the program is the chairman's home State of Texas. In Michigan, we are now approaching our volume cap of $50 million in what was originally thought to be a pilot program. These certificates have been serving households with average incomes of $22,000 and now operates through 80 lenders in Michigan.

Mr. President, this summer I introduced legislation to extend the mortgage revenue bonds and mortgage credit certificate programs through 1992. At that time, it was my impression that both of these programs had been extended last year by the 1986 Tax Reform Act through December 31, 1988.

Unfortunately, it was discovered that because of a typographical error in the final 1986 act language, only the mortgage revenue bond program had been extended, and that because of the omission, the mortgage credit certificate program is statutorily scheduled to sunset at the end of this year. The technical corrections to the 1986 act (S. 1350) corrects this error and extends MCC's to December 31, 1988.

The distinguished chairman can understand my concern that the mortgage credit certificate program is about to expire and the technical corrections bill which takes care of my concern is not included in the leadership deficit reduction proposal. I would simply ask the chairman if he plans on bringing the technical corrections bill to be acted upon by the Senate and if he does, when may we expect it?

Mr. BENTSEN. I thank my friend from Michigan for bringing this matter to my attention. I share your concern regarding the need for prompt action on technical corrections legislation. I expect that the Finance Committee will turn to technical corrections legislation early next year.

Mr. RIEGLE. I thank the chairman for his encouraging remarks. I wonder if the chairman might also tell me if he considers the mortgage credit certificate program extension a purely technical correction and therefore noncontroversial in nature.

Mr. BENTSEN. Mr. President, if I may respond to my friend, I do indeed consider this program's extension through 1988 a true technical correction. As the Senator from Michigan has accurately stated, the only reason the mortgage credit certificate program is technically about to expire is because of a typographical error in the statutory provisions of the 1986 Tax Reform Act—pure and simple. All along, it was Congress's intent to see that this program continue through 1988 with the mortgage revenue bond program.

Mr. DOLE. Mr. President, I would like to join with my distinguished colleague from Michigan in this discussion and thank him for bringing this issue up before the Senate. As my colleague knows, I was the principle cosponsor of the MCC Program in 1983. I remain very much committed to this efficient homebuyer assistance program. It is truly unfortunate that solely because of a clerical, typographical error in the 1986 Tax Reform Act this program will technically expire on December 31, 1987.

Mr. RIEGLE. I want to express my appreciation to both the distinguished Chairman of the Finance Committee and the Republican leader for their comments, and I look forward to working with them on technical corrections as early as possible in the next session.

Mr. PRYOR. Mr. Chairman, it is my understanding that in regard to the treatment of timeshares and lots under the applicable installment accounting provisions the leadership amendment makes no changes to what Congress passed in the Tax Reform Act of 1986. It is my additional understanding that the House also retains current law, and, therefore, the treatment of timeshares and lots will be a nonconferenceable item in the budget reconciliation conference.

Mr. BENTSEN. Yes, that is my understanding.

Mr. CRANSTON. Mr. Chairman, as you know, the financial community has widely anticipated the passage of the Technical Corrections Act of 1987. However, because of the importance of passing the reconciliation bill as soon as possible, technical corrections apparently will not be part of the reconciliation package this year.

Mr. BENSTEN. The Senator from California is correct. As a result of the budget summit with the White House, the technical corrections have been taken out of the reconciliation bill.

Mr. CRANSTON. No doubt you have heard from a number of individuals who are concerned about how to conform to the Tax Reform Act of 1986 in the absence of technical corrections.

For example, investors have significant doubt about how to treat the capital they have raised for investment in low income housing. Such capital had been raised in reliance on the technical corrections. Without the technical corrections, investors will be faced with expiring allocations of tax credits which do not carry forward to 1988 and will need guidance in making investment decisions in December, 1987. Without such guidance, low income housing credits will be wasted and private sector capital expenditures on low income housing will be deferred, or even worse, eliminated in some cases. In any event, the losers will be the already disadvantaged occupants of the low income housing. It is my hope that taxpayers who file tax returns in reliance on the Technical Corrections Act of 1987 will not be penalized.

Mr. BENTSEN. I have heard from a number of constituents who are concerned about how to conform to the Tax Reform Act without technical corrections. I assure the Senator that efforts will be made to provide retroactive protection for those who are relying on the original Technical Corrections Act of 1987 which I introduced with Congressman ROSTENKOWSKI earlier this year. I will also urge the Treasury Department to provide guidelines for those taxpayers who file their 1987 returns in reliance on those technical corrections.

Mr. CRANSTON. I thank my friend from Texas for his willingness to address this issue.

PHYSICIAN ASSISTANTS PROVISION OF HOUSE CONCURRENT RESOLUTION 93

Mr. GRASSLEY. The Committee on Finance has included a provision calling for reimbursement by the Medicare Program of services provided by physician assistants in doctors offices, clinics, and in private homes. This provision is roughly similar to legislation I introduced earlier this year, S. 1230, and which was introduced in the House of Representatives by Congressman RON WYDEN.

I am grateful to the committee and the chairman for their consideration in including this legislation in their reconciliation package.

However, I have one concern with the provision included by the committee in their reconciliation package. And that is that the reimbursement rate included in the committee's provision is set at 65 percent of the supervising physician's prevailing rate as opposed to a reimbursement rate of 85 percent as proposed in S. 1230.

May I know why the committee used the lower reimbursement rate?

Mr. BENTSEN. When the Committee submitted the proposal to the Congressional Budget Office for its analysis, we received a cost estimate much higher than we had anticipated. We felt the only way we could include the proposal in our reconciliation package was to lower the reimbursement rate

so as to keep the cost within acceptable levels.

Mr. GRASSLEY. As a former member of the Finance Committee and as a current member of the Budget Committee, I appreciate the chairman's concern about the potential cost. However, it is my understanding that those original CBO cost estimates were based on an overestimation of the number of physician assistants currently practicing.

In light of this, the Congressional Budget Office has reevaluated this proposal. When the estimates were redone using a new number for the total number of certified physician assistants, the cost of provision—at an 85-percent reimbursement level—became $10 million less than the original estimate for the 65-percent reimbursement level.

Does this accord with your understanding of the facts on this issue?

Mr. BENTSEN. Yes; that is my understanding.

Mr. GRASSLEY. Because of this, it was my intention to offer an amendment on the Senate floor to raise the reimbursement rate in this provision to 85 percent.

However, I understand that the committee wishes to use OMB scoring for key provisions of its revised reconciliation package, and because this particular provision has not been scored as part of this revised package, it is the preference of the managers of the bill to consider this issue during conference with the House rather than on the floor of the Senate

Am I correct that it is your opinion that this is a more appropriate method of proceeding on this issue?

Mr. BENTSEN. Yes.

Mr. GRASSLEY. In light of that, I would like to address several specific concerns.

The co-sponsors of S. 1230 and I believe that the 65-percent reimbursement level is too low and should it be impossible for the Senate's conferees to negotiate a higher reimbursement level, we would prefer to see the provision dropped.

Can I have the assurance of the chairman that he will not allow the provision to be retained at the 65-percent reimbursement level?

Mr. BENTSEN. I can give the Senator my assurance that I will move to drop the provision if an agreement to include the 85-percent rate cannot be reached.

Mr. GRASSLEY. We believe quite strongly that the 85-percent rate as provided for in the original legislation is appropriate and justifiable within the budgetary constraints as outlined by the committee. This is particularly true in light of the fact that primary care services have traditionally been undervalued.

I understand that when you get to conference you will need to discuss the cost of this provision with OMB should you try to change the reimbursement level presently in the bill.

It is also my understanding that OMB estimated the cost of this provision as it was included in your original reconciliation package at zero. Is this correct?

Mr. BENTSEN. That is correct.

Mr. GRASSLEY. Also, as I mentioned earlier, CBO's revised estimate of the cost of this provision puts the cost at the 85-percent reimbursement level, at $10 million less than the original CBO estimate for the provision at the 65-percent reimbursement rate.

Furthermore, when you evaluate the cost estimates made by CBO for various reimbursement rates. 65 percent, 80 percent, and 85 percent, it is evident that the reimbursement rate has a relatively small effect on the total cost of the provision. Indeed, over 3 years, going from a 65-percent reimbursement rate to an 85-percent reimbursement rate makes a difference of only $18 million. Therefore, it is at least plausible that, even though OMB may estimate some cost for this change, that cost should still be considerably lower than anything CBO has estimated.

In that case, would it be your feeling that unless OMB comes in with cost estimates radically different than those they made originally, it should be possible to achieve the 85-percent reimbursement rates we are seeking, or a reimbursement rate very close to that? And can I have your assurance that you will endeavor to negotiate a reimbursement rate as close to the original Grassley-Wyden legislation as possible?

Mr. BENTSEN. I will do my best to secure an agreement that reflects the reimbursement policy in the original Grassley legislation.

Mr. SYMMS. The Tax Reform Act of 1986 contained a provision requiring small businesses—specifically subchapter S corporations, partnerships, and personal service corporations—to change to a calendar year bookkeeping system rather than allowing them to continue to use a fiscal year system.

Congress adopted this measure in the Tax Reform Act because it would speed up the payment of taxes, not because it would actually increase the amount of tax paid by owners of such corporations and partnerships. This law causes an acceleration of tax receipts to the Internal Revenue Service, which may help this Government reduce the deficit in the very short run, but it only causes bookkeeping havoc for thousands of businesses across the Nation. Because this inequity must be corrected, I introduced S. 1718 on September 25, and I have supported Senator BAUCUS' similar bill, S. 1520, which would permit small businesses to retain their freedom of choice.

Today I am rising in support of a measure in the House of Representatives' budget reconciliation bill that substantially matches the provision Senator BAUCUS introduced in the Senate. This legislation is revenue neutral and was developed over long months of thoughtful planning and negotiations. It corrects a stringent, unnecessary, and unworkable requirement which was added with no debate, without hearings, and without a complete understanding of the impact it would have on many taxpayers. Besides imposing considerable hardship on small business owners and CPA firms, it will place an unreasonable administration burden on the IRS itself.

Traditionally, a business selects a fiscal year ending at a slow time in their business cycle to facilitate the closing of books and the taking of inventory. This bill recognizes the importance of the reasoning behind this decisionmaking process. Mr. President, how many retailers do you know that will want to be beginning their bookkeeping responsibilities during the yearend holiday season?

For these reasons, Mr. President, I urge my colleagues to consider the importance of accepting the House reconciliation measure in conference committee and give it their support.

Mr. LAUTENBERG. Mr. President, I want to express my strong interest in a provision in the original Senate Finance reconciliation package which has been dropped from this bill. The provision essentially embodies a bill of which I am an original cosponsor, S. 1520.

It's an important provision, and there is a real need for its prompt enactment. Essentially, it would allow certain types of organizations to retain their fiscal years. That's important not only to these businesses, but also to accountants, who will face substantial and unnecessary burdens if legislation isn't enacted soon.

As the bill proceeds to conference, I would hope that the conferees would be willing to include the provisions of S. 1520.

Mr. DIXON. Mr. President, we all know that the United States is the greatest and most powerful country in the world. Regrettably, our world position is being threatened and undermined by our escalating deficits. America is now the world's largest debtor nation. From 1981 to 1987, our debt to foreigners has increased by $550 billion. At the same time, our national debt has increased to more than $2.5 trillion.

Efforts to remedy this situation have had little effect. It took a worldwide stock market crisis to force the administration and Congress to join forces to attempt to effectively address this devastating situation.

The administration sat down with Congress to craft a responsible solution to the problem. It was a unique opportunity to make significant strides in restoring our economic and world position.

Unfortunately, however, the summit accord failed to result in greater deficit reductions. After a month of meetings, the President and congressional leaders could only commit to a package that is effectively not much larger than the current Gramm-Rudman-Hollings requirement.

The results of the budget accord fall far short of the achievement anticipated when the summit began. It is hardly an ideal package. Yet, to its credit, this package produces the largest deficit reduction agreement in history.

The reconciliation package on which we are voting today is certainly preferable to the automatic across-the-board cuts that have been triggered under the Gramm-Rudman-Hollings Balanced Budget Act. It is preferable in terms of the level of deficit reductions, as well as the equity and balance of the cuts.

The automatic sequester calls for a $23 billion deficit reduction. The summit agreement achieves $30 billion of deficit reduction in 1988, and over $76 billion of savings over the next 2 years. When the one-time savings—such as tax reform, asset sales, and outlay shifts—are discounted, permanent savings result in $25 billion in 1988 and $42 billion in 1989.

One-time savings artificially lowered our deficit figures for fiscal year 1987. With the exclusion of one-time savings the 1987 deficit would have reached a level of $185 billion, rather than the reported $149.7 billion. The summit agreement will reduce the deficit from this $185 billion in 1987 to $155 billion in 1988 and $145 billion in 1989.

The summit package is a balanced plan. All parts of the budget—defense, domestic discretionary spending, entitlements, and revenues—share in the sacrifice. Savings from a sequester would be extremely unbalanced, with almost all deficit reduction coming from defense and domestic appropriations.

The summit agreement is far better than the Gramm-Rudman-Hollings sequester in its effect on low and moderate income Americans. Appropriations for domestic discretionary programs would be cut less than one-third as much under this package. Fiscal year 1988 appropriations for domestic discretionary programs would be $8 billion higher under the budget agreement than under sequestration. In addition, fiscal year 1988 outlays for domestic discretionary programs would be $4.7 billion higher under the budget agreement.

While the defense budget would also fare better under this accord, defense appropriations would be only slightly above a freeze level. Defense outlays would increase only 1.2 percent from fiscal year 1987 levels, the smallest increase in 10 years.

The revenue component of this agreement includes $9 billion of new taxes in 1988 and $14 billion in 1989. None of the taxes would come from changes in income tax rates, income tax indexing, or any broad-based consumption taxes. The agreement calls for $4 million of additional user fees in each year.

The budget summit fell short of what we all had hoped would be achieved by the unique opportunity and circumstance provided it. What did emerge, however, is a deficit reduction package upon which the President and leaders of Congress have agreed. Priorities have been established, and the way has been paved for larger deficit reductions for fiscal year 1988 and beyond. These savings are larger than would result through the Gramm-Rudman-Hollings sequester.

I will vote in support of this package, and I encourage my colleagues to do the same.

Mr. ROTH. Mr. President, to borrow what has now become a well-worn political cliche: Here we go again! Today as our Nation feels the effect of the precarious stock market, Congress is ready to do what it always does: Throw money at the problem.

Now, I would like to recognize the leadership and the committee work that has gone into this package.

However, I rise to express my concern and my opposition to the budget reconciliation bill. Frankly, I don't believe that American people are going to be taken in by a measure that does so little toward spending cuts and does so much toward tax increases. I do believe that our countrymen will agree with me, that this package is not in their best economic interest, nor in the best economic interest of America.

Now, I have heard suggestions that I should vote for this because the only alternative is a sequester. And my position concerning a sequester has been clearly stated. I voted against the original Gramm-Rudman law, and when Congress revised Gramm-Rudman in September, I voted against that, too. On September 23, I stood on this floor and strongly opposed the changes being made. I knew it would result in a tax increase, and look at what we have today. That very day, I said:

> The Gramm-Rudman-Hollings process * * * once again puts us firmly in a position for tax increases. * * * We see that it could provide, intentionally or otherwise, the grist needed to force the White House into a tax increase.

The automatic across-the-board spending cuts are a trap for the President, a ticket to new taxes on a road to new revenues. Clearly, I do not want a sequester. I did not vote for one. I do not favor one. But neither do I favor a tax increase on the American people.

In short, this reconciliation bill will raise $9 billion in new taxes this year and $14 billion next year. In return, we are supposedly cutting spending. This is how Congress is trying to sell the bill, but it is not the truth. In reality, this bill, combined with the continuing appropriations bill—which we will be voting on in the near future—will actually lead to an increase in spending of nearly $50 billion over last year's spending. And that, Mr. President, is not a deficit reduction.

In fact, under this bill, it is likely that this year's deficit will be greater than last year's deficit, and our constituents will soon see that little has been done to cut spending. They will see that Congress is merely reducing the spending level from an inflated baseline. And I believe they will be incensed that these synthetic figures are being used to force them to swallow a $23 billion tax increase.

I am adamant in my support for lowering the deficit, but this is not what Congress is proposing. In fact, while those who support this bill are saying that discretionary spending will be cut by $2.6 billion, defense by $5 billion, and entitlements by $4 billion, the reality is that discretionary spending will grow by $7 billion, defense by $3 billion, and entitlements by $37 billion. These represent increases of 1 percent, 4 percent, and 8 percent respectively over last year's level.

Frankly, this is not the message Washington can send to Wall Street. It's not the message Washington can send to Main Street. The business as usual message of tax, tax, tax, spend, spend, spend has run its course, and we cannot allow it to run any longer. I find it no small irony that just as we talk about deficit reduction, and the fragile economy of our country, Congress is also enacting a new catastrophic health insurance program whose financing is questionable at best, and at worst, could severely increase the deficit.

To compound matters, for the past 2 months Congress has repeatedly voted overwhelmingly to approve appropriations measures that were much higher than last year. Time and again, I've stood in this Chamber to vote against spending measures—not because I didn't agree with them, but because I believe we need to bring spending under control. And time and again, I found myself in the minority.

Repeatedly, Congress has demonstrated its inability to stick to a budget. And Congress has repeatedly, over the past year, voted to authorize new programs and reauthorize old ones. Each of these actions takes us one step deeper into deficit despair. Our history clearly demonstrates that

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Congress cannot restrain its spending habits.

If Congress was serious about the deficit, these appropriations and authorizations would be reviewed more carefully. Instead, Congress continues to ignore any semblance of restraint and responsibility. It's not on a sound budget, and consequently—according to a study I released—we found that every dollar of tax increases, generates $1.58 in additional spending. Quite frankly, the only way the deficit is going to be reduced is when the American people say, "Enough," and cut off our allowance.

Though the deficit has declined by one-third in fiscal 1987, it remains too large. Continually large deficits threaten the economy and our standard of living. This reason alone is serious enough to warrant deficit reduction measures. And there is only one body in America that can do what needs to be done. The responsibility lies here on Capitol Hill. Not a dime of Federal spending can be appropriated without the consent of Congress.

With this in mind, I believe there is a very responsible way that we can overcome the deficit, send the proper message to both Wall Street and Main Street, and restore sound economic principles. While everyone must agree, the market situation is disturbing, and is in need of immediate attention, there is also some good news. Today the economy is solid—better than it has been in any post-war period since 1796. And this must be the base upon which we build our deficit reduction.

While the recovery is allowed to continue, Congress must take measures toward real cost-cutting. I believe there are a number of areas where closer scrutiny can provide greater efficiency and cost-effectiveness. Simply, Government can cut back, and the time has come to make the "harder choices," to get the President and Congress together, to examine real spending cuts and the real role of the Federal Government.

I believe we should phase out subsidies on agricultural products. I believe we must eliminate urban development action grants. And we should enact my legislative proposals mandating a Federal employee early retirement option. It surprises me that as we look for sure-fire, easy ways to cut back, we can't get agreement on this one proposal—a proposal that is supported by Federal workers, and will create better career opportunities for women, minorities, and our young work force. This proposal, alone, could save as much as $3 billion over the next 5 years. But we shouldn't stop here.

Consequently, I've sponsored or endorsed several proposals to cut Government spending. I endorse the idea of legislation for a 2-year freeze on discretionary and defense spending for savings of at least $10 billion. This, of course, does not include a reduction in Social Security and other retiree cost-of-living increases.

We should also close unnecessary military bases. And we should trim the growth in military procurement by postponing acquisition of additional aircraft carriers.

You all know my feelings about military waste and abuse. Our Government can save literally billions of dollars by demonstrating the same care in shopping for hardware that the American consumer must demonstrate. Our defense programs must operate with a mentality of finite resources.

These, however, are only a few, preliminary areas where we can become more financially responsible. To care for the people's taxes is an extremely important trust, and I hope they will be developed more thoroughly. I hope that as we look to sound economic policies, we will keep in mind that in our society the people's money is best left with the people—to be saved and invested—to build our country the way it was intended to be built. Government has proven what it does with money—it's spent its way into a deficit. Let's give the people a chance.

This deficit agreement—top-heavy with taxes, is not the way to meet the challenge we face. We cannot tax our way into continued prosperity. Tax increases were among the policies the Hoover administration adopted after the 1929 market crash. If we are to learn anything from the history of the stock market it should be clear that we should keep as much money in the pockets of the American people and reduce the deficit by reducing Government spending.

Mr. GLENN. Mr. President, as chairman of the Subcommittee on Manpower and Personnel of the Committee on Armed Services, I would like to comment on the provision in this bill which lowers the military pay raise we authorized in the fiscal year 1988-89 Defense Authorization Act of 3 percent to 2 percent effective January 1, 1988.

Mr. President, I want to point out that the Senate had a 4-percent military pay raise in the fiscal year 1988-89 Defense authorization bill and that we compromised in conference with the House to come down to 3 percent. I indicated at that time that I felt strongly that we needed to give our military personnel a competitive pay raise. Based on the employment cost index [ECI], the index used by the Department of Defense to compare military pay increase to the private sector, the 3-percent raise would have just about kept pace with projected private sector wage growth. However, measured against the ECI, military personnel are currently some 9.4 percent behind private sector wage growth. By dropping to a 2-percent pay raise, we will be widening this gap to double digits. I know we have deficit problems that we have to deal with and that we have to ask for belt tightening all around. Therefore, I reluctantly curb my instinct to oppose the reduced level of a 2-percent increase in military pay that is in this bill for fiscal year 1988. At the same time, I want to say again that we have to be very careful about what we do next year. The growing pay comparability gap is insidious and could cause retention and recruiting problems that we need to be wary of.

Mr. President, I also want to say that I am concerned about our Federal civilian personnel whose salaries and wages have been capped over the last few years. In comparison to the private sector wage growth, they are even further behind than military personnel. As measured against the private sector they are currently 24 percent behind. This kind of treatment of our Federal civilian work force is bound to cause problems in the future if we are not careful.

Finally, Mr. President, I believe it is a credit to our men and women, both in and out of uniform that they carry out their duties in a professional and dedicated manner in spite of the pay gaps. I think their services are undervalued and we need to keep this mind as we deal with the pressures of fiscal reality.

Mr. BOSCHWITZ. Mr. President, I rise to speak about the agricultural portion of the leadership amendment to budget reconciliation.

Senator HEFLIN often advises us not to buy a pig in a poke. That is good advice. What we have here however is worse than a pig in a poke it is a snake-in-a-sack. When we untie the string all of agriculture is going to get a little excited.

I stood on this floor way back in April when we first brought up the Senate budget proposal and objected on the grounds that agriculture was singled out as the only program where spending will be cut below levels of last year. Every other item of the budget got an increase over 1987 levels.

For the last 6 years I have heard Members from the other side of the aisle get up wailing and moaning about how the President and others were trying to balance the budget on the backs of farmers. That never happened as farm program costs rose faster than anything else in the budget—increasing over 300 percent during the period.

Then we come along in 1987 and the first budget proposed by the new majority takes it out of the hide of farmers. I would not object so much if program costs were rising, but they are not. They are coming down.

Let us talk about why they are coming down, why demand for the

goods American farmers produce is back up and why the farm financial situation has turned around. Then let's talk about the snake-in-a-sack the Senate is being called on to approve.

There is one simple reason American agriculture is coming back—competitiveness. This body has spent a lot of time this year worrying and giving lip service to the need for America to be competitive. We have a giant trade bill languishing in conference which will probably end up making America less competitive.

However, in agriculture the positive trade balance is growing even more. We don't have fancy new corn or soybeans. No—we have a competitive price—pure and simple. Why? Because in 1985 we, in a more or less bipartisan way, passed a farm bill that had lower loan rates and other tools such as export subsidies and generic certificates to make our prices competitive.

In addition, the value of the dollar has gone down. Some of my colleagues are quick to ask why, as long as the value of the dollar is going down, do loan rates matter? Using that logic, raising loan rates to offset the dollar drop comes out the same on price.

The answer as to why this logic doesn't work comes in two parts. First, the impact of a high-valued dollar was overstated in the early 1980's and the impact of a lower valued dollar is overstated in the current period. You have to look at the value not only relative to the U.S. value of the purchasers currency, but the value of the competition's currency.

High rates of inflation in places like Argentina and Brazil and to a lesser extent Australia offset much of the U.S. currency changes.

Second, instituting high loan rates in good times is just what we did in the 1970's. Every time Congress could get away with it loan rates were raised. It really didn't make much difference because we were cranking along at full capacity and market prices pretty much stayed above the loan rate.

Then the 1980's hit and all the factors that caused U.S. farmers to become prosperous in the 1970's reversed. Good weather worldwide, the Soviet embargo, a high-valued dollar, petro dollars in the Third World, interest rates—they all changed against farmers.

Our farm legislation made things worse. Instead of acknowledging the changed world, we continued our high loan rates and our massive set-aside programs as if we were the only people who produced or knew how to farm. For 5 years the administration and some Members of Congress argued, begged, and threatened on the loan rates issue. For 5 years we lost and for 5 years American agriculture slipped deeper and deeper in the hole.

Then in 1985 a light finally dawned on Congress that things were not working too well and that we had better stop cursing the storm and start fixing the boat.

That boat fixing consisted of lower loan rates, marketing loans, export subsidies, and the Generic Certificate Program.

This leadership package, attached to this bill because of its loan rate provisions, starts poking holes in the boat again. When the weather gets rough in the future—and it will—we will have to go through the same wrenching experience we did in the early 1980's.

As far as I am concerned, limiting the Secretary's discretion to reduce loan rates from 5 percent in 1988, to 1 percent under this proposal is very shortsighted policy. If market conditions change, this little loan rate adjustment makes us uncompetitive and outlays will actually increase. It is inconsistent with the market oriented focus of the 1985 Food Security Act which is gaining more and more adherents for its success.

This action has additional international implications. The Europeans have just now for the first time come to the negotiating table to reduce international subsidies and trade barriers. They do this not because they want to. They do it for the same reason the Soviets agreed to our arms control proposal—because the United States showed resolve to stand up to our adversaries and fight back. The European Community did not give us the time of day when we nicely asked them to stop inducing and dumping so many goods on the market.

After the 1985 farm bill they started paying a whole lot more attention. I fear their belief that we would not stay the course, would not show resolve, and would soon fall back into the muddled policy we have always had may be confirmed by our actions. They will become harder to deal with; meaningful reform will surely be set back.

Mr. President, I do not have an amendment to strike the loan rate provisions because the convoluted computer costing game would charge me with additional outlays and a point of order would be brought. However, I will work as hard as possible to see that conference comes out with something that makes more sense than this.

I realize that this whole budget summit and leadership amendment process is out of the ordinary. I would have preferred to let the chairman, Mr. LEAHY and ranking member Mr. LUGAR work things out—that is what leadership is about.

Instead, the committee was called together Friday afternoon and a 15-line piece of paper was handed to us with the comment that it had already been cleared by the Senate leadership. In desperation Senator PRYOR and I laid down another proposal—we didn't even know the cost-out on it when we laid it down.

Let me make clear that we are talking about a $2.5 billion package—on 15 lines with some numbers beside them. I now find that those 15 lines have expanded to over 50 pages of legislative language. There are so many items in this mess that the committee was never made aware of, I don't have the time to go through them.

The point is this. If we are going to have a leadership package let's have one. If we are going to have committee action let's do it properly. The rump session last Friday was so bad even the Senate Recorder gave up trying to keep track of what was going on.

The Senate Agriculture Committee has never been known for adhering to very many rules—that is good in many instances. Senators under this and the preceding chairman have had extensive rights to participate. However, I would hope that all members of the committee work to see that no future meeting disintegrates into the scene we had last Friday.

Mr. ADAMS. Mr. President, there has been a lot of talk in the last few days about "solutions" to the budget problems we face. Before I turn to the specific concerns that I have about the various budget proposals which have been offered, let me try to take a look at the way we got into this mess.

The root cause goes back to the decision made by President Reagan and David Stockman to cut taxes, increase defense spending, and hope that somehow we could have a balanced budget as a result. It was, as then Senator Howard Baker said, a riverboat gamble. Well, we have been rolling the dice for a couple of years now—and they came up craps last month.

We could have avoided that. Over the past few years there have been persistent attempts to try to make the changes we needed to make. There have been calls to increase revenues—those calls have fallen on deaf ears. There have been calls to reduce defense spending—those calls have fallen on deaf ears. There have been calls to reform entitlements—and those calls were heard by the people in the White House. But there is no way to justify touching the programs that help those who have the greatest need while we protect those who have no need but greed.

Mr. President, this administration is concerned about the rhetoric of deficit reduction. They like the rhetoric of a constitutional amendment to balance the budget; they like the rhetoric of a line-item veto; but they don't like rhetoric that has anything to do with reality. They don't like facing the fact that their 1981 tax cuts and defense increases started a national fiscal disaster or that partial "fixes" such as Gramm-Rudman can't fix it.

As a result, we have wandered for 7 years in an economic wonderland with $200 billion deficits as far as the eye can see, with a trillion dollars added to our national debt, and a stock market which inflated by speculative takeovers finally toppled and only now is staggering back.

Traditional Republican economics have often been described as a policy without a heart. This Reaganomics is a policy without a heart or a brain. Trying to run on percentage cuts or fixes, the congressional response was to adopt a policy without a heart, without a brain—and without eyes. The Gramm-Rudman-Hollings approach asked us to take a blind, wild swing at the problem. the weakness in Gramm-Rudman-Hollings is not that it asks for cuts—it is that it does not ask us to make cuts based on our Nations sense of values. Instead of looking at our needs and values, Gramm-Rudman-Hollings just asks us to look at a "baseline"—and, as we have seen all to often, this administration is willing to manipulate the data to get a baseline they like. This baseline also freezes into place the Nation's spending into a high defense/nonprogressive tax system.

In terms of specifics, the Kassebaum amendment, while commendable, is also blind. It freezes in place the inequities of the President's budget, it freezes in place the unacceptable priorities it reflects, it freezes into place the errors of the past. It achieves real savings, but it achieves them in unacceptable ways. The Gramm amendment, in my view, is even worse: it asks that all the sacrifices be made on the spending size without any recognition of the need for comparable equity by freezing tax rates. That is why I voted against both of those amendments.

That leaves us with the leadership package. Those who participated in the budget summit, which essentially gave birth to the leadership amendment, labored for weeks and produced, at best, a patch which we can slap on a leaking tire. No one believes that their proposal—based on what we know about it—will repair the damage that has been done. However, it can keep us going, it can keep the tire inflated until we reach a garage where we can buy a new one. That garage is about 13 months away when a new President, with a more realistic view of economics, will come into office. The leadership amendment can, I believe, can get us through that 13 month period without creating the hardships and perpetuating the inequities associated with the freeze proposal.

In short, Mr. President, I simply do not believe we can do anything about our basic structural problems until 1989. But we must start the debate now. As long as this administration thinks they have to "negotiate" with the Congress—as if we were some foreign power with which they have an adversarial relationship rather than a cooperative one—as long as the administration clings to the tattered dream of supply side economics, there isn't a chance to repair the system. Instead of trying to deal with those who will not talk, we ought to be working on getting through this next year with a minimum of damage and I for one am developing plans and strategies for a repair and revitalization of the Federal Budget System.

Mr. President, I do not fault the leadership for coming up with this plan which has less than we need. I do not criticize the proponents of the freeze for coming up with less than we want. In this environment, I just don't think we can get at the causes of our problems. So I will ultimately support the best patch I can find and that is the leadership package.

Mr. METZENBAUM. Mr. President, I will vote for the leadership amendment to the pending reconciliation bill, in spite of some serious reservations over a number of its provisions.

In my opinion, Mr. President, we could have done better. But the leadership amendment is the best plan before us—and above all, it is much better than an across-the-board sequester.

Two provisions in particular cause me concern.

The first is the language included by the Budget Committee to achieve savings in the Guaranteed Student Loan Program. This provision requires State guarantee agencies to give up specified portions of their cash reserves.

The Senate Education Subcommittee has not had an opportunity to hold hearings on this issue or to consider its potential effect on the GSL Program. I'm worried about the impact this action may have on the long-term stability of the system, and on the solvency of individual agencies.

I also have a number of questions about the validity of the formula used to determine the amount of reserves which an agency must give up. It's a shame if States like Ohio, who have done a good job and who have low default rates, end up being penalized for properly managing their programs.

The second flaw in the amendment is the increase in the Medicare part B deductible from $75 to $85. Now, many would argue that $10 is a small price to pay in the name of deficit reduction. For some, no doubt, it is. But couple that with the whopping 38½-percent increase in the Medicare premium, then consider the fact that the part A deductible has increased by 155 percent since 1981, and you're talking about a burden that's tough to bear for a lot of senior citizens.

There is a growing perception, Mr. President—both here in the Halls of Congress and in the popular press—that all of our Nation's elderly are living on easy street. That's a dangerous perception, because it's just plain wrong.

It is a fact that the social programs of the last 40 years have alleviated some of the fear of growing old.

It is a fact that Social Security has been a powerful weapon against poverty.

It is a fact that Medicare provides decent health care to those who might otherwise go without.

But it is also a fact that millions of older Americans live in poverty, millions more live in fear of it, and millions more are just getting by, day by day, month by month.

I hope my colleagues remember that the next time someone trots out another half-baked proposal to cut Social Security benefits or to freeze the COLA.

Again, Mr. President, I'll vote for the leadership amendment. It's not perfect—but there's probably no such thing. It does put a dent in the deficit, it is real savings, and hopefully we can do better on the next round.

I yield the floor.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD.)

THE LEADERSHIP DEFICIT REDUCTION PACKAGE

● Mr. SIMON. Mr. President, I would like to voice my support for the leadership deficit reduction package. The bill makes some tough choices and puts us on a sure path toward a balanced budget.

The agreement provides for $30 billion in savings for 1988 and $46 billion in 1989. Some of the savings are the "one-shot" variety. However, a solid core of the legislation will continue to provide savings well into the future. Many of the cuts are painful, but that may be the hallmark of a good deficit reduction bill.

Like Senator CHILES, I believe we may have missed a golden opportunity for even greater deficit reduction. In particular, I believe more savings should have been found in defense spending. We should eliminate duplicative weapons systems and inject true competition into the procurement process. I also believe greater revenues could have been found that would enhance the equity and progressivity of the Tax Code.

Mr. President, this Nation's economy has been backed into a corner. Under the leadership of the Reagan administration, we gutted programs that move people from the unemployment rolls into productive jobs. The official unemployment rate masks much greater joblessness across this Nation. We simply cannot afford to allow these people to go without jobs. They cost us with increased welfare payments and lower tax revenues. We must begin to restore funding for programs that stimulate employment. Only

when we return our budget priorities to these kind of long-term investments will we pull ourselves from the current budget quagmire.

In closing, I would like to pay tribute to the chairman of the Budget Committee, Senator LAWTON CHILES. This body will lose his leadership during the next Congress and we will be the lesser for it. LAWTON has a rare ability to lead delicate negotiations. He inspires good faith on the part of all participants so that everyone gives up something for the common good. And, he was always willing to take his share of the tough cuts right from the start.

I don't know what his reasons for retiring are, but I know that negotiations on the budget always take a toll. Somehow, I hoped his calm exterior meant the tensions were not penetrating, but we are all human. The next year doubtless holds even more frustrations, but I look forward to making further progress on the deficit under LAWTON's leadership. Jeanne joins me in wishing LAWTON and Rhea only the best in the coming years.●

IMPLEMENTING THE BUDGET AGREEMENT

Mr. DOLE. Mr. President, I rise to urge my colleagues to support the adoption of this reconciliation package. I do so without much enthusiasm, for this is a very modest achievement.

I am disappointed.

Black Monday gave everyone in Washington and Wall Street a good scare. As a result, the budget summit was convened and there were great expectations. Rightly so. We had an unprecedented opportunity to set aside partisan differences; and for the good of the country make serious spending reforms that would ultimately result in balancing the budget. But that didn't happen. The summiteers came up with the bare minimum, but no more.

Having said that, this package is clearly better than nothing, and clearly better than a sequester. The revenue increase is much lower than many feared. And there are a few fundamental changes in spending that will have long-term impact.

What we have to all keep in mind that this is only the beginning, the first step. In the immediate future, we have to go to conference with the House, and pass an omnibus appropriations bill. And beyond that, it will be increasingly difficult to meet even the revised Gramm-Rudman-Hollings targets—especially in an election year. But sooner or later, and I hope it is sooner, Washington is going to have to face up to budgetary realities. Congress and the President are going to have to do what the Senate had the courage to do back in 1985—eliminate programs, address entitlement programs, and cut real spending. We proved that it can be done. We can do so again.

So, Mr. President, let me once again urge my colleagues to support this measure. Every little bit counts, and while this is only a little bit, it shows that we did not walk away from the problem, that we were at least willing to make an attempt to deal with the deficit.

BUDGET PACKAGE: AGRICULTURE

Mr. President, the Senate Agriculture Committee met last Friday and again yesterday to iron out a proposal which meets the committee's required budget savings of $2.5 billion.

PACKAGE OUTLINE

I would not suggest that this is a great package. It is only a starting point. The package does meet the required budget savings and at least maintains the fundamental direction of the farm bill by continuing to allow a decline in loan rates albeit more slowly than current law would allow. The administration strongly opposes restricting their authority to reduce loan rates saying it could jeopardize recent export gains.

The package protects farmers' income by limiting declines in target prices to 1 percent and only for 1 year. In fact, the Senate's package simply switches the scheduled 2 and 3 percent declines to 3 and 2 percent. So the total target price decline would still be 5 percent over the next 2 years.

The package also gives soybean and oilseed producers a marketing loan for 2 years to make their crops more competitive worldwide. In addition, it allows the production of soybean and oilseed crops during fiscal year 1988 on the 5-percent increase in the unpaid feed grain acreage reduction program, or arp. However, if soybean stocks exceeded 425 billion bushels, then the feed grain arp would be reduced 2.5 percent and the paid land diversion would be increased 2.5 percent. Planting more acreage to soybeans and oilseeds should help producers arrest the alarming decline in acreage planted to these crops.

NEED FOR EQUITY AMONG COMMODITIES

Mr. President, one of my concerns going into the conference will be to ensure that feed grain producers are not required to take a disproportionate share of budget cuts. I believe most people in rural America feel that, in general, budget functions should be treated equally and that no single program within any budget function should face the brunt of the budget ax.

Feed grain producers are initially being required to increase their unplanted acreage amounts by an additional 5 percent while decreasing their paid land diversion acreage by 10 percent. They also have their diversions tied to the stock levels of a nonprogram crop during the second year of this plan. Many feed grain producers will find this highly objectionable. So we will need to examine this further during conference and I will look forward to working with the feed grain industry in this regard.

We may also need to re-examine the provision that achieves savings through lowering commercial storage rates. We need to be sure we provide adequate incentive for commercial elevators to store CCC-owned grain.

CONCLUSION

Mr. President, I would reiterate that the Senate Agriculture Committee's budget package, now part of the leadership package, is only a starting point and may need improvements once we get to conference. We should ensure that all commodities and programs are treated equitably while minimizing any adverse impact on America's farmers.

Mr. LEAHY. Mr. President, I rise today in support of the leadership deficit reduction amendment which represents the plan recently negotiated by President Reagan and the bipartisan leadership of Congress.

While this plan to reduce the Federal budget deficit is not perfect, it is a major achievement. The amendment will reduce the deficit by $75 billion over 2 years through roughly equal cuts in defense and domestic spending, and by closing more than $9 billion in tax loopholes.

This plan represents the first time in 7 years that domestic programs, such as law enforcement, education, and health research, have not been forced to shoulder the burden of deficit reduction alone. For the first time, the Pentagon must do its share. As a result of this amendment, defense spending will be frozen, producing a savings of $5 billion.

Last Friday, the new Secretary of Defense Frank Carlucci ordered more than $33 billion in budget savings at the Pentagon for the next fiscal year. Much of that savings will be produced by cleaning up the Defense Department's wasteful procurement practices. This amendment is the first step toward controlling wasteful spending at the Pentagon, in a way that will ensure a strong national defense.

This amendment is also far better than the alternative: The automatic budget cuts under the Gramm-Rudman-Hollings balanced budget law. Allowing the automatic budget cuts to take full effect would have devastating effects nationwide. Three thousand air traffic control workers, including controllers, would be laid off. One thousand new senior citizen housing units, crucial in my own State of Vermont and elsewhere, would not be built. The Coast Guard would be forced to mothball more than one-fifth of the ships it uses to fight illegal drug trafficking. Research on a cure for AIDS would be cut by $82 million, and the National Institutes for Health

would have to cancel 3,300 research grants to scientists searching for cures for other diseases.

The Gramm-Rudman-Hollings sequester would also have very serious repercussions in Vermont. Low income energy assistance would be cut by $866,000 in the middle of winter. Student financial aid would be slashed by almost $700,000. Federal highway funds would be cut by more than $950,000 at a time when improving roads is on the top of Vermont's agenda. Social services block grants, which help so many in our communities, would decline by nearly one-half of $1 million. This is not the way to reduce the Federal deficit.

Automatic cuts would also deal a harsh blow to American farmers. Under the sequester, dairy farmers will face an 8½ percent cut in milk support prices. An 8½ percent cut in all farm programs could drive American agriculture right back into a depression. More and more farmers could be forced off their farms.

The whole purpose of Gramm-Rudman-Hollings, of which I was an early supporter, was to use the threat of unacceptable cuts like these to force Congress and the President to throw politics aside and work together to reduce the deficit. And, it has worked. For the first time in this administration, President Reagan sat down at the same table with leaders in Congress and negotiated a bipartisan plan. This plan represents the largest one-time reduction in the Federal deficit in our Nation's history.

The budget summit agreement and this amendment, however, are not perfect. I believe Congress should go even further in reducing the Federal deficit. By putting off some of the tough decisions to reduce the deficit, we are going to make the job even harder next year, when the Congressional Budget Office estimates the deficit may grow to more than $190 billion.

That is why I support freezing the Federal Tax Code for 1 year. Under the new tax reform law, the two top tax rates are scheduled to be eliminated this year, reducing the top tax rate from 38.5 percent to 28 percent. I favor postponing this decrease for 1 year—a plan which will raise more than $16 billion.

Freezing the Tax Code will actually produce a tax cut for 94 percent of the taxpayers in my State of Vermont. The tax freeze permits increases in the important standard deduction and personal exemptions—the tax breaks for the middle class. In addition, the tax freeze would prevent the scheduled decreases in other important middle-income deductions, such as the consumer interest deduction.

Under the tax freeze, the 6 percent of Vermonters who earn more than $50,000 will simply be asked to pay the same taxes they paid last year, to help reduce the Federal budget deficit. I have spoken to business people and investors across Vermont and the Nation. Mr. President, they are willing to accept this one-time freeze in taxes, if it will help make truly significant progress toward reducing the Federal budget deficit.

I also believe that we can do more to control Federal spending; not by cutting Social Security COLA's for our Nation's elderly, but by eliminating waste.

For example, the Congressional Budget Office reports that more than $1.7 billion could be saved by adopting more competitive procurement rules for travel by Federal workers. While travel costs have risen by 33 percent for the traveling public since 1981, Government travel costs are up by more than 41 percent. The reason: The Federal bureaucracy has not used its enormous buying power to reduce travel costs.

Mr. President, in the agriculture title of the leadership amendment, we on the Agriculture Committee demonstrated that we can make tough choices to reduce the budget deficit. The agriculture deficit reduction package will trim approximately $2.5 billion from the national debt over the next 2 years. These spending cuts will not come easy.

Under the leadership amendment, target price levels for all of the basic commodities will be reduced in 1988. This reduction is over and above the reductions already scheduled to occur under the current Milk Price Support Program and the Wool Price Support Program will take equivalent cuts in spending. Other provisions will help decrease surplus production and reduce excessive storage costs.

This is only one example of places where the Senate can still cut spending to reduce the deficit without harming national security. We do not have to stop with the leadership deficit reduction amendment.

Mr. President, I urge the Senate to adopt the leadership deficit reduction amendment. It has the support of the President, of Democrats and Republicans, and it deserves the support of the Senate. While I had hoped for even greater deficit reduction, the leadership amendment makes a real and significant down payment on our budget deficit.

Mr. BAUCUS. Mr. President, several of my colleagues have come to me asking me what happened to my proposal to allow partnerships, Sub S corporations and personal service corporations to retain their fiscal year for accounting purposes. I am saddened to report that the Finance Committee did not include this much-needed, time-sensitive proposal in our budget reconciliation. I am pleased to report to them that this omission reflected a desire to move budget reconciliation along, rather than any opposition to the proposal itself.

I support reducing the deficit. However, I also support reducing the unreasonable problems we are imposing upon accountants and their clients—small businesses, farmers and ranchers—by not resolving this issue before the end of the year.

For that reason I again want to urge the conference to include the tax year conformity solution which Senator HEINZ and I, joined by almost one-half of the Members of the Senate have been striving to enact.

Small business owners will see increased accounting and legal fees under the tax year conformity proposal we enacted in last year's tax reform bill. We should not let that happen.

Small business owners, farmers, and ranchers will be required to pay accounting and legal bills for the cost of closing their books twice and filing two sets of tax returns—Federal and State—for each of the two accounting periods ending in calendar year 1987. We must act now to stop this foolishness.

Because this provision applies to existing as well as newly formed entities, small businesses which have used a fiscal year accounting period for many years will now have to amend contracts, compensation agreements, and retirement and employee benefit plans. This may make lawyers rich but it does nothing to improve competitiveness.

Our failure to act this year will add to the paperwork burden of small businesses and create greater administrative burdens both for taxpayers and the Internal Revenue Service. How will we explain that to our constituents.

Some of my colleagues may not yet be familiar with the need for fixing this fiscal year problem. Some may ask, "Why do businesses care if they have to give up being on a fiscal year?"

Let me answer that by saying that there are many important business considerations involved in why businesses opt to be on a fiscal year accounting period. Most businesses select a fiscal year which ends at a slow period in their business cycle. In this way these small business operations do not have to close their books and take inventory while trying to cope with a busy sales period, a planting season, or a harvest time.

For example, a rancher would want his taxable year to end in September, not December. Harvest is over. His business year is over in September. His business calendar closes with the seasons, not with the ringing of bells on New Year's Eve.

A retailer wants his tax year to end after the December holidays are over and before spring merchandise is in demand. He does not want to have to

close his books when he is trying to have a post-holiday sale and dealing with shoppers returning the gifts they did not like.

A ski resort owner wants his tax year to end in May or June when there is no snow. He has no desire to have to do his accounting when he could be selling lift tickets and servicing the skiers who fill his slopes.

This is especially important for the small and family-operated businesses who do not have the flexibility to shift personnel from sales to accounting or the money to hire extra help to do his accounting chores.

I have worked with the accounting profession to develop an absolutely revenue-neutral solution which would allow these small businesses to retain their fiscal year accounting periods and pay enhanced estimated taxes to offset any revenue benefit their fiscal year might otherwise give them. The Joint Committee on Taxation has provided invaluable assistance in helping us make this solution revenue neutral.

Members of the accounting profession are to be commended for their responsible approach to solving a problem they did not create. Given the current Federal deficit, it was not possible, politically or fiscally, to promote any other proposal. I thank them for understanding the problems we in Congress have. Now I ask my colleagues to understand their problems. I ask that we include help for them in the conference agreement on this reconciliation bill.

We must act now. There will be no time to address this problem in a technical corrections bill next year. Next year is too late. By then the omelette will be broken. All the king's men won't be able to put that omelette together again. The eggs will have been broken, scrambled, and served by next year. After the beginning of the year a business's fiscal year will have to be changed to a calendar year. It will not be reasonable to go back and undo the steps the business will have to go through to conform to the calendar year end. Either we correct this problem before we adjourn this year or businesses in our States will be forced to convert to and live with, calendar year accounting.

Correcting this problem must be done now. I trust Chairman BENTSEN will leave no stone unturned in working to include a solution to this problem in the conference agreement. I urge my colleagues to work for that goal.

Mr. CHILES. Mr. President, I urge the adoption of the leadership amendment.

The PRESIDING OFFICER. Are there amendments?

The question is on agreeing to the leadership amendment.

The amendment (No. 1254), as modified, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1263

(Purpose: To strike provisions relating to nuclear waste policy contained in the reported bill and to substitute in lieu thereof the nuclear waste provisions adopted by the Senate on November 18, 1987, with the passage of H.R. 2700, and for other purposes)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1263.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed later in today's RECORD under amendments submitted.)

Mr. JOHNSTON. Mr. President, this amendment, which is a joint, agreed-to amendment between the Energy Committee and the Environment and Public Works Committee, simply takes out of reconciliation the provisions on nuclear waste as entered in reconciliation by the Energy Committee and as entered by the Environment and Public Works Committee, and places in lieu thereof the Senate-passed bill in toto. It is agreed to by all parties.

Mr. President, during consideration of S. 1920, the Omnibus Budget Reconciliation Act of 1987, I am offering an amendment to strike the provisions of the reported bill that relate to nuclear waste policy and replace them with the nuclear waste provisions the Senate adopted on November 18, 1987, as a part of H.R. 2700.

Specifically, my amendment will delete the provisions of title III of S. 1920 relating to nuclear waste, sections 3002-3009 and 3011. It will substitute for subtitle A of title II the text of S. 1668 as amended during Senate consideration of H.R. 2700.

These provisions of title III, reported by the Committee on Environment and Public Works, are outside the jurisdiction of that Committee and, in the case of sections 3002-3009, score no savings.

Although revenues may be generated by section 3011, the subject matter of this section is not within the jurisdiction of the Committee on Environment and Public Works. Thus section 3011 would be subject to a point of order under rule XV, paragraph 5 of the Standing Rules of the Senate and under the "Byrd Rule" (section 20001(d)(1)(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended).

Specifically, such revenues would be generated by increasing the rate of collections for the Nuclear Waste Disposal Fund. The budget for the fund is shown in the Congressional Budget Office baseline as being under the sole jurisdiction of the Committee on Energy and Natural Resources.

The provisions of S. 1668 have already been scored by the Budget Committee with savings of $139 million in budget authority and $70 million in outlays in fiscal year 1988. The subject matter is within the jurisdiction of the Committee on Energy and Natural Resources.

This legislation, as perfected by the Senate during consideration of H.R. 2700, provides a balanced program to redirect the national effort to manage and dispose of nuclear waste. Such a redirection is essential if the program is to have a chance to be successful. In that context the provisions of the legislation are integral to the success of the program achievement of the savings the Budget Committee has scored.

Some would argue that the provisions of this amendment are merely incidental to the savings and therefore are extraneous under the "Byrd Rule." I would argue that they are not, for the following reasons:

First. Sequential site characterization is essential to generate savings.

The General Accounting Office has estimated that site characterization of three repository sites under current law will cost $5.9 billion. Only one of these sites will eventually become a repository. The only way that any significant savings can be generated from the nuclear waste program is to reduce the number of characterized sites. S. 1668 does that by requiring that sites undergo characterization sequentially, with the first acceptable site characterized becoming the repository. Based on the record, there is ample reason to believe that at least one of the three candidate sites now under consideration can be successfully characterized.

Sequential site characterization will lead to additional efficiency and cost reduction in the program by allowing the Department of Energy to concentrate its best efforts on a single site. This will add to the savings resulting from not characterizing two sites.

Second. To be accepted by the host State, sequential site characterization must be accompanied by a benefits package.

Narrowing the focus to a single preferred site intensifies the opposition in the State that is eventually chosen. The nuclear waste program is an unprecedented effort in Federal-State

interaction from which the State gains very little under current law. Success in such a program ultimately requires the cooperation of the State chosen for a waste facility. This will be impossible unless incentives can be provided for the State so that this Federal-State interaction becomes a cooperative one.

To accomplish this, S. 1668 gives up some of the savings generated through sequential site characterization by authorizing generous benefits payments to host States. Without these payments the determined opposition of a host State could prevent any progress in the program.

Third. A back-up facility must be provided in the event that sequential site characterization results in delay in opening a repository.

The characterization and licensing of a deep geologic repository for high-level nuclear waste has never been accomplished anywhere in the world. We are attempting it for the first time. The schedule for opening a repository, therefore, must be regarded as quite uncertain. There are many ways this schedule could be stretched out.

Yet the Department of Energy is required by contractual obligations and current law to begin acceptance of spent nuclear fuel by January 31, 1998. In addition, an important goal of the nuclear waste program is the demonstration of the capability of the Federal Government to address the problem of nuclear waste management. Timely acceptance of spent nuclear fuel as required is essential to such a demonstration.

Because of the uncertainty in the schedule for availability of a repository, it is prudent to include in the waste management system a backup facility capable of accepting spent nuclear fuel and storing it temporarily until the repository is opened. In this way, the requirements of law can be met without placing undue pressure on the repository construction or licensing process.

Accordingly, a monitored retrievable storage facility is authorized by S. 1668 to ensure that the contract obligations of the Department of Energy to accept spent nuclear fuel in 1998 are fulfilled. This facility also provides significant system advantages to the program that the Department believes justify the facility on its own merits.

S. 1668 would also authorize generous benefits payments to a State hosting a monitored retrievable storage facility, so that the Federal-State interaction in the siting of such a facility will be a cooperative one. As is the case for a repository, without these payments the determined opposition of a host State could prevent any progress in the program.

In sum, sequential site characterization, a monitored retrievable storage facility, host State incentives and significant cost savings from the program are tightly linked. These provisions are by no means "merely incidental" to achieving the savings.

Fourth. Currently, there is no need to construct a second repository.

Deferring plans to construct a second repository will result in significant additional savings.

It is generally agreed that the spent nuclear fuel expected to be generated through the first decade of the next century can be accommodated in a single repository. However, current law requires the development of two deep geologic repositories. The simple fact is that a second repository will not be needed for many years, and substantial expenditures on such a repository are unwarranted at this time. S. 1668 defers decisions on the second repository program until the first decade of the next century, generating further program savings. Deferring the second repository also allows the Department of Energy to focus its efforts more effectively on a single repository program.

These are the essential elements of the amendment I am offering. I believe that each element of the package is important to the success of the program as a whole.

I assume that Congress intends this program to succeed. Failure of the program will also generate savings, but at the cost of ignoring a problem that only the Federal Government can solve. I believe that option to be unacceptable, and I am therefore determined to urge the adoption of the program embodied in S. 1668 in its entirety.

Mr. BREAUX. Mr. President, if my colleague will yield to me for a moment. For the benefit of those Members who wonder what is going on and whether or not we are about to engage in another protracted fight over the nuclear waste issue that was played out just a couple of weeks ago on the energy and water appropriations bill, I would like to make just a few observations and address a couple of questions to my distinguished senior Senator.

First, as the Members are all aware, both the Environment and Public Works Committee and the Energy Committee included amendments to the Nuclear Waste Policy Act in response to our respective budget reconciliation instructions. I think all the Members are aware of the differences in those two versions and I do not want to get into that now.

Yesterday, before the Senate appointed conferees to the energy and water bill, H.R. 2700, Senators JOHNSTON, REID, and ADAMS entered into a colloquy wherein assurances were given that the Senate conferees would not conference the nuclear waste issues contained in that bill as long as negotiations were continuing on the budget reconciliation track. Obviously, we need to have an agreed to procedure for a place-holder on the nuclear waste issue in the reconciliation bill if those negotiations are to bear fruit.

Now, as I understand the situation, certain points of order could be made against both the energy and environment nuclear waste provisions in the reconciliation bill, and if all such points of order were sustained by this body, we would have no process for negotiating an agreement where all the committees in both the House and Senate are involved.

Therefore, we have worked out an agreement with the Energy Committee which is reflected in the current amendment. It is my understanding that the Energy Committee has agreed that notwithstanding the fact that the nuclear waste place-holder embodied in this amendment is going to be placed in the energy title of the reconciliation bill, Senator JOHNSTON, the distinguished chairman of that committee has agreed that Senator BURDICK, chairman of the Environment and Public Works Committee will be entitled to name three members of our committee to the appropriate subconference on the nuclear waste issue. Is that indeed the distinguished Senator's understanding of the situation?

Mr. JOHNSTON. Yes, it is.

Mr. BREAUX. This agreement does not affect the jurisdiction of the two committees in any way. Am I correct?

Mr. JOHNSTON. That is correct.

Mr. METZENBAUM. Mr. President, will the Senator from Louisiana explain a little more fully what this amendment is about?

Mr. JOHNSTON. Yes.

As part of the energy and water appropriation bill, we passed a nuclear waste provision. The Senator will recall that we passed nuclear waste provisions out of the Energy Committee. We started with that as part of energy and water. We amended it; we changed it. What we are doing is taking that provision, as passed by the Senate, without any change at all, and putting it in this reconciliation bill, in lieu of the provisions on nuclear waste which the Energy Committee reported and which the Environment and Public Works Committee reported.

This is being done by agreement between the two committees.

Mr. METZENBAUM. Is there anything else over and beyond that? Is there anything having to do with other matters, other than the specifics the Senator just mentioned? In other words, we came out of the Energy Committee with an amendment; and my question is, has there been anything added to or subtracted from that amendment?

Mr. JOHNSTON. Only that which was added to and subtracted from any floor action.

Mr. METZENBAUM. Is there anything in this amendment having to do with the question of contractors' liability?

Mr. JOHNSTON. No. This does not deal with Price-Anderson at all.

Mr. METZENBAUM. Nothing?

Mr. JOHNSTON. Absolutely nothing.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Who yields time?

The Senator from Louisiana has 7 minutes and 3 seconds under his control.

Mr. MITCHELL. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. I yield.

Mr. MITCHELL. Mr. President, I understood the Senator to say that the amendment includes the Senate bill as enacted, including the amendments added on the floor. From that, I take it that the amendments offered by myself and my colleague from Maine are included in the amendment which the Senator is now offering.

Mr. JOHNSTON. The amendments are included, and we will stick with those through thick and thin in conference.

Mr. MITCHELL. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BENTSEN. Mr. President, who has the time in opposition?

Mr. DOMENICI. I am not opposed, so I am disqualified.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

If the Senator from Florida is favorable to the amendment, the time will then be under the control of the minority leader. Will there be desire to yield back the time?

Mr. DOMENICI. I yield back any time in opposition.

Mr. CHILES. I yield back any time.

The PRESIDING OFFICER. Is there further discussion?

The question is on agreeing to the amendment of the Senator from Louisiana. The amendment (No. 1263) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1264—MOTION TO STRIKE TITLE I

Mr. DANFORTH. Mr. President, I move to strike title I of the bill, and, I know that this is the issue on which there is 1 hour equally divided.

The PRESIDING OFFICER. (Mr. REID). The Senator is correct.

The amendment follows:

Strike Title I, beginning on p. 2, line 1, through and including line 5 on page 9.

Mr. DANFORTH. Mr. President, having moved to strike title I, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, title I is a title to the underlying reconciliation bill. Title I has nothing to do with the so-called leadership compromise.

The issue that is before us now arises because the leadership compromise, the leadership amendment is not a substitute for the whole bill, but instead is a perfecting amendment.

Therefore, the leadership amendment leaves in the bill certain aspects of the original reconciliation bill.

One of those portions of the reconciliation bill that is not touched by the leadership amendment is title I, which is the Commerce Committee title to the bill.

Mr. President, title I has within it four parts. Two so-called user fees are in title I. One of the user fees is a transfer fee on the transfer of radio and television licenses. A second user fee is a Coast Guard user fee.

In addition to those two user fees, title I codifies the fairness doctrine and it creates a trust fund for public broadcasting. That is what title I does.

Mr. President, the user fees that are incorporated in title I were specifically considered by those who negotiated the leadership package. These user fees, these taxes were expressly considered by the leadership negotiating team and they were expressly rejected.

So these fees are not only extraneous to the leadership amendment, they are contrary to the agreement of the leadership negotiating team.

They are unacceptable to the administration. They will almost certainly be dropped in conference and they exceed the amount of money, the total amount of money along with other user fees that are in the leadership package. They exceed the total amount of money that the leadership group agreed to come up with by way of user fees.

So this is extraneous money, contrary to the leadership agreement, and, as a matter of fact, it is unacceptable to the President of the United States.

Most Senators have heard that the President opposes the codification of the fairness doctrine. I guess all of us do, having vetoed it.

There is a letter from Secretary Baker and Budget Director Miller, and the letter says—among other things—it is a letter of December 10:

Two Senate Commerce Committee provisions must be removed in order to make the bill acceptable. First there is a provision that codifies the fairness doctrine. As you know, last year the President vetoed free-standing legislation to accomplish this objective. Another Commerce Committee provision would set a fee for the transfer of Federal Communications Commission licenses and establish a trust fund. This fee would fall most heavily on owners of the least economic viable licenses, AM radios and UHF television. The public broadcasting trust fund established with revenue from the transfer fee is also objectionable and must be deleted.

So, Mr. President, the question before us now is, Why do this? Why put in user fees that are not necessary to the package that have been previously rejected? Why codify the fairness doctrine when it is veto bait as far as the President of the United States is concerned?

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 6 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 6 minutes.

Mr. PACKWOOD. I thank the Chair.

Mr. President, I was on the budget summit leadership conference. The Senator from Missouri is very correct. This issue was not sloughed over in the conference. It was discussed and rejected, along with the Coast Guard user fees.

We full well knew the issue. We were trying to debate whether we should have $800 million in user fees or $400 million in user fees. We decided on $400 million and said we would not put in any that had not been mutually agreed between the House and the Senate. We will take them out.

That was the agreement. So if we in good faith are going to adhere to the budget summit leadership agreement these ought to be out. In my judgment they should have been out in the leadership package, but that is neither here nor there.

Second, this is a very dangerous budget practice from the standpoint of the Budget Committee and reconciliation in future budgets, because it henceforth every committee in order to meet its savings targets, and that is usually what they are, savings targets,

can instead devise a tax which they can call a user fee and send it on to the Budget Committee, you are going to have a plethora of trust funds created by every committee in the Congress for the purpose of funding the very functions that they supervise and we all know of the incestuous relationship—I do not mean that badly—between committees and the functions that they supervise. The Agriculture Committee loves the farmers. The Commerce Committee loves the Coast Guard, and on and on.

This in any way, shape, or form is not a user fee by any of the normal definitions we used to call user fees, which was to tax the user, collect revenues in a trust fund for the benefit of the user. In the airport trust fund, you pay money on the ticket and they use it to improve the airports. In the Social Security trust fund, you pay money into the Social Security trust fund and you collect benefits.

Gasoline tax, you collect money in the trust fund and you spend it on highways. This is not a user's fee. It is a tax, straight-out tax. It belongs in the jurisdiction of the Finance Committee. If we are going to have any rational budgeting process, this should be out of this bill.

I am not going to go into long detail about my views on the fairness doctrine anyway, but in addition to everything else, not only is this a tax on the sale of broadcast properties, it is a tax on free speech. Because it says that if the radio station or television station is sold and the fairness doctrine is violated, the tax is increased. I am almost torn in theory. In theory, I want to support it because I think it makes the case against the fairness doctrine all the more constitutional when it is in court. I am not going to argue that point here tonight.

I would encourage every Member of this Senate to realize the road you are walking on when you start on these trust funds and user fees in committees and support the motion to strike of the Senator from Missouri.

Mr. BENTSEN. Will the Senator from Missouri yield me 4 minutes?

Mr. DANFORTH. I yield 4 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, as the chairman of the Finance Committee, I rise to support the motion on the basis of jurisdiction. There is no question in my mind but what this is a tax; and it is a sales tax.

What you have in this tax is a situation where the tax is calculated based on the value of the sale. Whether the station sells for $1 million or sells for $100 million, a 2-percent tax applies. Or if it has been sold after being held for a very short period of time, then a 4-percent tax applies. This tax does not at all resemble a fee for government services, or for the use of government property.

This tax also gives rise to numerous tax-type issues typically dealt with by the Finance Committee: Was the sale an installment sale? What kind of depreciation schedule did the seller use? What if the price is not paid in cash? Those are the things which are normally in the jurisdiction of the Finance Committee, not within the jurisdiction of the Commerce Committee, and I happen to serve on both of them.

So I think we make a very serious mistake if we step over the jurisdictional line. Frankly, I think this tax could have been structured as a user fee and could have been nailed down and pinpointed in that direction.

Therefore, I must very strongly resist this particular amendment. I must also say, insofar as what my ranking minority member, the distinguished Senator from Oregon, has stated, what we have is a situation where we agreed in the summit meeting that we would have 400 million dollars' worth of user fees—400 million dollars' worth—but that those things would be the common items in the House and the Senate reconcilation bills.

So I consider this to be a violation of what we tried to do and what we committed to try to bring back in conference. Therefore, I must support the motion to strike.

Mr. DOMENICI. You support the Senator from Missouri.

Mr. BENTSEN. I very definitely support the Senator from Missouri.

Mr. CHILES. I yield any time I might have in opposition to the motion to strike to the control of the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina controls 30 minutes.

Mr. HOLLINGS. Mr. President, I yield myself momentarily such time as it will take necessary to explain the exact situation.

First, Mr. President, each of the distinguished Senators now that have spoken know how to write legislation and they know how to submit the particular, what they call the leadership package. And the very fact is that my distinguished colleague from Oregon has been a violent opponent of the fairness doctrine and he knows how to get rid of it and he has been getting rid of it for about 2 or 3 weeks in that summit conference, but did not succeed.

Of course, you have the amendment as a perfecting amendment. And they know how to draw things around here, particularly the draftsmanship of this particular summit status as it is, or whatever you would call it.

So, be that as it may, let me get to the point, because we are short of time.

I would readily agree to strike all references to the fairness doctrine. I understand how the Senator from Oregon feels. There is no question in my mind it will come up again. We have within that Committee of Commerce by instruction from this body, the U.S. Senate a veto message. Now, we have a sufficient majority vote to report that out tomorrow morning, but we do not have the two-thirds. And they know that and we know that and we both have been watching that very closely as members of that particular committee.

But I would rather not waste the time and get right to the substance, because you see the motion to strike strikes some $325 million from this particular deficit. I have been hearing the moaning and groaning and, oh, how they are going to balance the budget and what a wonderful job and, at 10:15 at night, just when we are ready to pass it, here comes the Simon-pure conferees and all of a sudden they are going to knock out $325 million from the Coast Guard and from the FCC, the radio spectrum user fee was recommended by the President in the first instance. They did not raise a point.

I refer particularly to page 2-55 of the President's budget that he submitted in January. He called for a spectrum fee on that page.

I ask unanimous consent that the text of that page be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUDGET OF THE UNITED STATES GOVERNMENT

FISCAL YEAR 1988

PROPOSED DEFICIT REDUCTIONS

(Change from current services, in billions of dollars)

	1987	1988	1989	1990	1991	1992
Revenue changes:						
Governmental receipts	−0.1	−6.1	−8.0	−8.6	−8.8	−8.9
Credit reform		−1.3	−0.6	0.9	2.2	3.6
Other loan asset sales		−4.2	−1.7	−0.8	−0.3	−*
Privatization:						
Amtrak sale and grant termination		−1.6	−0.6	−0.7	−0.7	−0.7
Sale of NPRs		−2.5	−0.3	0.5	0.7	0.6
Sale of RMAs			−1.8	−2.6	−5.4	−4.0
GSA real property sales		−0.3	−0.4	−0.2	−0.2	−0.2
Terminate crop insurance		−0.2	−0.5	−0.6	−0.7	−0.8
Health professions training subsidies	−0.1	−0.2	−0.2	−0.2	−0.2	−0.2
Subtotal, privatization	−0.1	−5.4	−3.7	−3.8	−6.5	−5.3
User fees:						
Credit fees	−0.3	−1.6	−1.6	−1.7	−1.8	−1.9
Other user fees	−*	−1.7	−1.9	−1.9	−1.9	−1.9
Subtotal, user fees	−0.3	−3.2	−3.5	−3.6	−3.7	−3.8
Other revenue changes:						
FSLIC		−1.6	−0.8	−0.5	0.1	−0.9
Medicare premium increase		−0.6	−1.8	−3.1	−4.4	−5.8
Subtotal, other revenue changes		−2.1	−2.6	−3.6	−4.3	−6.7
Subtotal, revenue changes	−0.4	−22.4	−20.1	−19.5	−21.5	−21.2
Interest	−*	−1.3	−3.2	−6.0	−9.3	−14.3
Total deficit reductions	−1.3	−42.4	−54.2	−66.2	−79.9	−90.6

* $50 million or less.

Mr. HOLLINGS. So that started the debate at the beginning of the year. And I will talk fast, Mr. President, because it has been a very difficult experience, as you well know, under this process.

Once recommended, our broadcaster friends, who to me are the most powerful I know of—if you do not really understand, I can tell you here and now they can change votes right and left. And that is quite understandable. We live and breathe by television and that is our reelection. And when it comes to performing the task on a spectrum fee as called for by the President, if the local broadcaster calls, you are going to do him a favor. You are not worried about the President. You are worried about your own reelection. That is common sense. I respect that. But they must also respect that power, too, because, next point:

We debated it and it was contained in the budget of the U.S. Congress. This Senate and the House jointly and, thereafter, in conference, what did they ask for? It was a spectrum fee by auction.

So you had, finally, the President and the Congress and the committee instructed. Thereupon, Mr. President, it got pretty heated after June 24 and sides piled up and particularly did they have a group of spectrum users get together known as the Alliance for Communication Licensing. And that particular Alliance for Communication Licensing contained the membership of GTE and land mobile and cellular, satellite, all of the different users of the spectrum got together vigorously opposing a spectrum fee by auction but thereupon favoring a fee by transfer, which is in the bill.

The NAB—everybody ought to wake up at 10:15 on this one—thereupon, in July, they put out their reconciliation option. This has been a struggle as the chairman of the Commerce Committee because we do not have any influence. I have heard my distinguished colleague from Missouri made a very impassioned sort of lecture and sermon in the caucus, because several members of the caucus told me so: "We can't let HOLLINGS get away with this." HOLLINGS get away with what?

I have been struggling all year long to support the decisions of the President and the Congress. And here came the NAB and opened the door for old HOLLINGS. Here is how it reads: "NAB strongly opposes these proposals," which was the fees, auction fees and otherwise, spectrum fees.

NAB strongly opposes these proposals except for an auction that is clearly restricted to assigning licenses for non-mass media spectrum uses.

Translation: We favor a spectrum fee for everybody but us. Never more greedy, never more selfish, never more stupid.

I have been in the game 40 years and I never heard them putting that down in black and white. I know we lobby, you know like Russell Long said, "Not for you and not for me, but tax the fellow behind the tree."

This guy puts it in writing. They made it formal policy.

I obviously then, trying to fulfill this, wrote the members of the committee saying on July 17 we would have a conference and an executive markup on July 25, and we would move forward with some idea of trying to get the Coast Guard fee and the spectrum fee in there and then started talking to individual Senators and saying: "Look, we have unanimity."

Now, you do not get that around this town. We have the President, the Congress, all the users of the spectrum fee, including broadcasters, favoring what? A spectrum fee. There is just one exception: The broadcasters say "Not on us," but they do favor it in this paper.

I ask unanimous consent to have the text of this printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

RECONCILIATION OPTIONS

As part of the Budget Reconciliation process, the Senate Commerce Committee is considering a number of ways in which the federal deficit can be reduced through revenues generated in programs within the Committee's jurisdiction. NAB understands that among the options being considered are three that would affect the communications industry. These three are:

(1) use of auctions to assign licenses for use of the spectrum;

(2) an increase in fees charged to communications entities under the FCC's "cost of regulation" fee schedule; and

(3) imposition of a fee or surcharge on transfers of licenses.

NAB strongly opposes these proposals except for an auction that is clearly restricted to assigning licenses for non-mass media spectrum uses.

1. Spectrum Auctions. Congress and the FCC have adopted a variety of policies to encourage ownership of broadcast facilities by minorities and women. These policies are intended to increase diversity of station ownership, and consequently, the diversity of viewpoints provided to the public. If spectrum auctions were used to assign broadcast licenses, this would undermine these policies by making it even more difficult for minorities and women to obtain licenses.

Furthermore, the historical quid pro quo for the free licenses that broadcasters receive is their obligation to use those licenses to serve their communities in the public interest. This core obligation has not been eliminated by deregulation. It would be unfair to retain these obligations and also require broadcasters to bid for their licenses.

2. Fee Schedule. In 1986, Congress passed legislation that established a schedule of fees for FCC services (P.L. 99-272). This schedule was carefully designed to allow communications entities regulated by the FCC to reimburse the federal government for the cost of these services. By law, this fee schedule is to be increased or decreased only in relation to changes in the Consumer Price Index.

NAB did not oppose this fee schedule, as its members are willing to bear their fair share of the cost of FCC services. If, however, Congress decides to eliminate the cost-based rationale for these fees, and to increase them simply to raise revenues, NAB will oppose such a proposal. Such fees would be no more than taxes, to be raised whenever more revenues are needed.

3. Transfer Fees. As with increases in the fee schedule, NAB would oppose the imposition of a fee on license transfers that is designed solely to meet revenue targets. Such transfer fees could be increased virtually at will, and would make long-term planning by station owners difficult and uncertain.

Conclusion. NAB recognizes the serious problems caused by the federal deficit, and the Commerce Committee's obligation to consider ways to help reduce that deficit. The Committee is considering far-reaching proposals, however, in a context that does not allow for careful deliberation, public hearings, or other formal input from interested parties. NAB hopes that the Committee will reject quick, but temporary, budget fixes that will have severe impacts upon the industries within its jurisdiction.

Mr. HOLLINGS. And so, Mr. President, we had unanimity, but the broadcasters are way more powerful. We could not get the meeting on July 25, and we could not get, of course, any meetings in the early part of August and we were trying in September. I will never forget the distinguished majority leader in the Democratic caucus saying: All right, we have extended the time, we have extended the time on reconciliation and everybody has responded except the Commerce Committee. And he looks over at me as if to say: Mr. Budget-Know-It-All and everything, you are the only fellow in violation. It was embarrassing.

I went to my colleague, Senator DANFORTH, the ranking member, and said: "JACK, look, we cannot get any votes. They have locked us in. These broadcasters have got them, I can tell you this, on an auction. But having taken the position they have in the alliance, all other users endorse a spectrum fee by transfer.

I have got many letters here and we will include them in the RECORD.

I said, let us have a meeting and agree on that part.

Now, in all candor, I did not mention fairness doctrine because this gentleman had taught me a lesson, the Senator from Oregon.

In 1981, without a holler about any hearings and hearings and notice, here comes this broadcast crowd that beat me all year long. They did not want a hearing, they did not want any notice, because they got me beat. I could not get any vote in the Commerce Committee to comply with the instructions of the U.S. Senate.

But the Senator from Oregon, the former chairman in 1981, he just stood on the floor on reconciliation and put

in the whole deregulation of broadcasts on the reconciliation bill.

There was not any notice, there was no hearing. Barry Goldwater, the chairman, and I had to race over here and we had quite a scene, but no use to go into that. But I remembered it well and I knew his opposition to the fairness doctrine, and that is why I did not mention it. But the fact remains not a soul objected to the process.

I want you to look at the record. We met off the floor. We are going to meet down here in 146, then we met up there in 126. It has been characterized by a broadcast, that he herded them in, ramrodded—you do not ramrod. Senators even know how to put a quorum.

The other day last week they held us up all day long in the Budget Committee because they just took the Republican Senators out when they did not have the vote so we could not get a quorum. So we met from 10 o'clock until 4:30 that afternoon and finally got, out of exhaustion, this particular reconciliation bill that is now under consideration.

But the point is that I did it that way. We went in the room over here, all the broadcasters there. The room was jammed full. No one raised the point of any kind of process. They knew what had been going on all year long and we have been beat and I knew, with 24 hours notice, the broadcasters could change all the votes in this body unless the conscience would sell the individual. Which I hope for this evening—or perhaps even later on.

Because, Heavens above, for all the spectrum users to come forward and say it is fair and we are willing to go along with it and here comes the rich of the richest—and I do not object to richness, but I mean of all things to have the audacity to come in here and say: Put fees on everybody but us.

The license sold in my back yard for $66 million; in Little Rock, AR, for $50 million; the average license is over $200 milion, and they sold $10 billion in licenses in 1985, all they are going to pay that particular county is a transfer fee. Why not pay the real value, the public spectrum which we are charged to protect and do something about?

Now, right to the idea of public broadcasting. We have had the authorizing bill actually vetoed twice in 1985. Incidentally, by process, my distinguished ranking member, the mover of this particular motion to strike, he put on financing for public broadcasting in 1985 on the reconciliation bill. I have followed the lessons of Senator PACKWOOD and Senator DANFORTH in this particular instance, when it comes to process. Everyone was notified. Senator DANFORTH voted for what you see in this bill. He did make the motion thereafter to knock the fairness doctrine out and in respect to that, we can do away with that and knock it out. It is in several places but I would move to strike, I guess, at the end of the time when it is yielded back. It is in four places in the bill and we are not playing games and I would move to strike it and I take it he would accept it and then we can vote.

But we have had now on public broadcasting tremendous difficulty. The Carnegie Foundation, back 20 years ago, recommended a spectrum fee. They had a joint conference in England, at Dixley, and I have gotten a letter from Clifton Daniels. Well, that is exactly what they recommended.

We had, actually, a fee on all television, radio sets for 15 years around this particular Government as an excise tax. But in this particular regard, when we could get all the users of the spectrum to come forth, when we do not have an authorizing bill and we have had hostility from the executive branch under President Nixon—he tried to adulterate the station in Florida. Everybody knew about that. We had to save the station in Florida because he did not like the editorial in the Washington Post.

Now comes this President redlining public broadcasting. We are trying to stabilize public broadcasting because over a third of their time is expended begging. And here is a well-respected institution that everybody likes, including the broadcasters, and we want to get them away from all the solicitation and let them put that little bit of money in production and give and continue the fine talented network shows that they put on.

I want to hold back here just for a moment and let my colleague from West Virginia talk about it, but I can tell you here and now, the process was respected. It has been awfully difficult for this Senator to even get the quorum, but let me retain the remainder of my time and yield 5 minutes to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. I thank the Senator from South Carolina.

Mr. President, I hope that title I is not stricken and I must say that there has been a lot of talk, not so much on this floor but in the Halls of this part of the Congress in the last week or so, about the process. People have complained about the process. The Senator from South Carolina made reference to that.

To argue about process is an easy thing to do, and I do not think any of us would argue that the process that we are going through in these very hours, days, and weeks, and will go through tomorrow and the next day and the next week is anything to brag about.

What we are really talking about here, and what I really want to focus on, is the matter of public broadcasting itself. One can complain about the process, but one has to deal with the substance of what it is that we are voting on; that is a motion to strike a source of permanent funding for public broadcasting as well as a potential for the next 2 years to substantially reduce our deficit.

I think this is a sound proposal incorporated in the reconciliation package. We do a lot of talking in this body about education. We do a lot of worrying about it, and competitiveness.

It occurs to me that the history of these next several years is going to be whether or not this country can pull her act together in terms of educating our young people, children, obviously, in particular. I think that future is going to be largely tied to the way in which we can support public broadcasting itself. In fact, 53 percent of teachers use public broadcasting in their classrooms.

We are talking, Mr. President, not about a process, not about a conflict, not about a matter of jurisdiction. We are talking about public broadcasting. We are not trying to square off commercial broadcasting versus public broadcasting. We are talking about a permanent funding for public broadcasting, which is good in and of itself. One hundred million Americans watch it. Four out of five homes watch it every month.

There are 324 public television stations. If you are a child, you have more hope through better programming in public television than you do through anything else in school; in fact kids spend more time in front of a television set than they do in school by the time they graduate from college.

We better hope that what they watch inures to their benefit. I will not go through the litany of all those public television, radio, and other programs which are available to children, but I will say that I think it is better by and large than what they are able to get elsewhere on television.

For adults, public television is far and away that particular medium which is most productive and helpful in terms of art, culture, music, drama, and the history of our world. There is more educational, fundamental, interesting, mind expanding in the best sense of the word in public television and radio than anywhere else in our country and fundamentally everybody in this body knows that.

That is what is interesting about this debate. It is not really a difference of opinion about public radio, public broadcasting, but we have

gotten ourselves caught up in the process of jurisdiction. It is not that.

We have a chance, here, in this Senator's judgment, to establish for the first time a permanent funding for public broadcasting.

I have to tell you that the amount of money which we spend in this country on public broadcasting is much less than they do in Canada where they spend $25 per person; much less than they do in Japan where they spend $14 per person. We spend $4 per person and only 15 percent of that comes from the Federal Government. The rest comes from corporations, school districts, and local sources.

But it is very hard, Mr. President, to raise money, not just because the economy is bad but because it is getting tougher.

Federal funding is a necessary leverage by all accounts in order to get other funding from other sources to pay for public broadcasting.

Well, as the chairman of the Commerce Committee has indicated, we have had a very hard time getting funding for public broadcasting. We end up with it. It is attached to the CR at the last moment. But if the President had vetoed it in the early 1970's and early 1980's we would have had a hard time counting on funding for public broadcasting.

Here is a chance for permanent funding. That is what we are debating. It reduces the deficit for 2 years and sets up a permanent trust fund. This Senator sees nothing wrong with that.

This Senator is not attracted to the arguments of process or jurisdiction. But this Senator is attracted by the arguments in favor of public broadcasting. It would be this Senator's hope that the motion to strike will fail.

Mr. DANFORTH. Mr. President, I yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise not because I oppose public broadcasting or the proposed method of funding. I just wish Senators would listen to where we are.

We had a reconciliation bill hanging out there for about 3 months. Part of that reconciliation bill was this proposal. I really am not interested tonight in how it got there. The fact that it was late getting to the Budget Committee seems irrelevant to my argument.

That reconciliation bill, and this proposal, as marvelous as it is, was destined to the graveyard. It was gone. There was no reconciliation bill. It was never going to be called up. It was the one that mandated $21 billion in taxes, you will recall, and all the other things. It sat there.

Do you know why we are here? Because the President of the United States responded to a bipartisan group of Senators who asked him to go to a summit conference.

You could take the reconciliation bill and shrivel it up and throw it away, including that provision, good, bad, indifferent, or however it was adopted.

We went to a summit conference. The President's men went there. We agreed.

I am going to tell you, there are few things that we agreed on that I can tell you as absolute and unequivocal as this one.

"There will be no fairness doctrine in the leadership package when it comes to my desk for signing," said the President's people.

We agreed.

"There will be no tax on the transfer of television and radio."

We agreed.

Why did we do that? Because we wanted to pass a reconciliation bill. We lose nothing. We agreed in that summit conference to reduce the budget by x amount, and we said we will use user fees that both Houses have passed.

This has not passed both Houses.

There was a reason for that. We understood that the other agreed-to user fees had been passed by both Houses and when you go to conference on this leadership package it could get done quickly.

The issue tonight is not whether this is a good package for public television, a tax or a user fee. The issue is, does the U.S. Senate want to send off to conference a piece of an old reconciliation bill that we just finished telling the President of the United States we will not put in our package? Then we will have to take it out in conference, or what? Or, we will lose the whole deficit reduction package.

Why do we not just do what we ought to do. The President has been forthcoming. He is now saying, "You send me what I have agreed to. I will not back up one minute. I am buying taxes I was not for. I am for all these other things." We agreed to give life to a dead reconciliation bill on our word and his word.

So what were we talking about 3 months ago about equity and all these other things? They would have gone nowhere but for that summit agreement.

That is why the Senator who voted for this provision is here on the floor tonight asking us to take it out. Am I correct, I ask the Senator from Missouri?

Mr. DANFORTH. That is absolutely correct. I am on the opposite position on the merits of the fairness issue from the Senator from Oregon and on the same side as the Senator from South Carolina. That does not have anything to do with the argument being made.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the President of the United States recommended a tax on radio and television. You might get in that little conference and have Baker and Miller tell you what they would like to knock out on account of the broadcasting, but I can guarantee you if we pass this we will get Ronald Reagan's signature. Do not worry about that. He recommended it. We have it by transfer fee and we have all the users agreed on this special fee, including the broadcasters. They just do not want it on them themselves.

I do not think the President will have the audacity to veto that part.

You are right about his position on the fairness doctrine. As I understand, I will make the motion at the proper time to strike and it will be agreed to and we can just vote on the substance, really, of taking care of the deficit to the tune of $325 million, and then that part that went onto the spectrum fee to go into a trust fund for the financing of public broadcasting.

Mr. WIRTH. Will the Senator yield?

Mr. HOLLINGS. I yield 4 minutes to the Senator from Colorado.

Mr. WIRTH. I thank the Senator for yielding.

I am sorry we are dropping out the fairness doctrine, but that is being done. I think the Senator is quite right in dropping the objectionable parts of the bill, objectionable to the administration.

I would like to speak to what I thought was a good proposal by the administration on the spectrum user fee.

Let us draw parallels between this and other scarce commodities that the public owns that are used on the private side.

If in the State of Oregon there is a national forest that is timbered, people going in timbering it do not get it for nothing. It seems to me they pay a fee. I am sure they do. They pay a fee for being able to timber on that public land.

If in the State of Colorado or the State of Wyoming someone goes in and wants to mine a coal seam that is on Federal land, they do not get to do that for nothing. They have to pay for doing it. They pay a fee for being able to use that scarce public resource.

It is the same thing with grazing rights. If someone in the State of Nevada is grazing their cattle on BLM land, they do not get to do that for nothing. They pay a fee for using that scarce public commodity.

The spectrum fee is no different than that. It is a scarce commodity. It is something a lot of people want. The

FCC allocates that as a scarce commodity. Some people win it and some people lose it. Some people get it. In this case, however, they get it for nothing, unlike timber where people pay a fee or coal where people pay a fee or grazing where people pay a fee.

For a broadcasting spectrum, the users pays no fee.

So the administration was very enlightened in suggesting, as the Senator from South Carolina put into the RECORD, a fee that they would pay for this scarce public goods.

What is wrong with that? We do it everywhere else. We are not going to do it for broadcasters because they are a powerful lobby? I guess that is what the question is about here.

They have said they would like to have a fee if it would not only apply to them. They also said they would support public broadcasting. Public broadcasting was well laid out by the Senator from West Virginia.

The virtues of public broadcasting were clearly laid out by the Senator from West Virginia and the broadcasters themselves have said for year after year after year that they want to do everything they possibly can to support public broadcasting and a competitive agenda and they did that after Gramm-Latta. After Gramm-Latta years ago, the administration tried to strip out public broadcasting altogether. The broadcasters came galloping to the rhetorical support of public broadcasting and said they wanted to help. So they ran advertisements for public broadcasting.

What we have here is the joining of two good ideas, the good idea of the administration to have a spectrum use fee to let the people who have that spectrum pay for it just like anybody else pays for a scarce public commodity. That is reasonable, fair economics. That is one good idea.

The other good idea was the idea that the broadcasters themselves had that what they wanted to do was to support public broadcasting. Here is the opportunity that they have. And we have the opportunity tonight, unfortunately, dropping the fairness doctrine, getting rid of what is objectionable to the administration, to keep two very good ideas—first, paying for a scarce commodity, which is what we do every place where the Government has something that is used by a private individual and, second, the support of public broadcasting by the broadcasters, the NAB. All of those folks, year after year after year, have said that they want to do it. I would hope that we could all maintain the proposal that came out of the Commerce Committee. It is good economics and it certainly is good for public broadcasting.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator's time has expired. Who now yields time?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this idea of the transfer tax may be a great idea. I do not know. We have never had a hearing on it to my knowledge. It may be a wonderful idea. We decided on it kind of on the spur of the moment when the Commerce Committee was mustered on, I think, a Wednesday afternoon in October.

But the fact is that this particular tax, the transfer tax on radio and TV stations was considered by the budget summit negotiators and it was rejected. It was agreed that this was not going to be in the package. The same with the Coast Guard fees that are also a part of title I. This is opposed by the President of the United States.

The agreement that was made by those who met at the summit was to produce a grand total of $400 million in user fees for 1988 and another $400 million in 1989. That amount has been exceeded by the leadership package as it now exists. We have already exceeded that amount that was agreed to in the aggregate for user fees without these fees. And therefore title I contains fees that was not agreed to, that are extraneous, that are opposed, that are not necessary to make the total amount of the agreement.

I would ask other Members of the Senate why pass a tax we do not need? There are plenty of times that we are called upon to vote for things we do not want to vote for and we absolutely need them. Why would any Senator vote for a tax we do not need? Why vote for a tax that will probably be dropped out by the House of Representatives and already has been strongly opposed by the President of the United States? Why vote for a tax that exceeds the aggregate amount in user fees that the budget summit people agreed that they would come up with? What is the reason for it? Is it the sheer joy of taxing people? That is the only argument for putting it in this bill. Not that it is needed for the package but that we really delight in extracting money out of people who want to sell radio and TV stations. If you want to extract it from them, maybe it should be done in some other way. Maybe there should be a spectrum auction. Maybe that is the way to do it. I do not know.

But why do we have to do it now in this bill in this remnant of the old reconciliation bill which has been purged from the package by the agreement of our congressional negotiators and those negotiating on behalf of the President of the United States? It makes no sense to this Senator.

Mr. President, for that reason, I think that not only the fairness doctrine aspect of title I should be struck for the bill but the entire title.

I might say, as I did earlier on the fairness doctrine, I have stood on the floor of the Senate with the Senator from South Carolina and argued for the fairness doctrine. I agree with him on the merits. I do not think it is the thing to do here in this bill in this fashion.

I agree on the merits on public broadcasting. I am not sure about the trust fund, but last year Senator Goldwater and I, I think played as big a role as anyone in the Senate in creating over the President's objection a 3-year authorization for public broadcasting.

I think it is wonderful to have public broadcasting, but that again is not the issue. This is shoehorning extraneous matter into what we believed was a package that was agreed to by the President and those who negotiated the budget. It is shoehorning something from an old remnant of a reconciliation bill, something that was not agreed to, something that was opposed by those who negotiated the package. I never dreamed that this remnant would continue to survive.

Mr. President, if Senators want to vote for a tax that is not necessary just because they delight in voting for a tax, this is the time to do it.

You will have your opportunity this very night to vote for a tax that exceeds the amount that the summit negotiators came up with. You can do it if you really enjoy raising people's taxes. I do not. I do not.

Mr. BRADLEY. Mr. President, I oppose the provision in the reconciliation bill added by the Commerce Committee to impose a tax on the sale or transfer of any radio spectrum license. This tax would apply to all users of the radio spectrum—including radio, television, cellular radio, paging, and business radios.

Mr. President, I take no position on the merits of the proposal. I strongly support public broadcasting and look forward to finding ways to provide it with stable and long-term funding authority. A transfer tax may even be a worthwhile mechanism to do so. There may be better ways.

But the merits of this proposal are not the primary issue for me.

I am extremely concerned about the precedent which would be set in allowing committees—other than the Finance Committee—to consider and report tax legislation to the Senate.

The proposal before us establishes a percentage of the sale price of any spectrum license which would be levied and used to support grants to public broadcasting. While I recognize the argument that this is a fee—similar to mineral leases and royalty pay-

ments, I find more persuasive the case that this is an excise tax—similar to Federal gasoline taxes—and as such, should be considered by the Finance Committee.

This is more than some petty feud between the Commerce Committee and the Finance Committee. It is important to have a coherent tax policy. If each committee can formulate taxes, a coherant policy will be impossible. I am particularly concerned about the consequences as each committee is required to meet its Gramm-Rudman-Hollings targets. Committees will be formulating fees in order to avert the need to adopt cuts.

I understand the pressure that committees feel to meet their budget targets. But good public policy requires that taxing authority be concentrated in one central committee which has overall responsibility and accountability. For that reason, I must vote to strike the Commerce Committee measure. I hope we will have the opportunity very soon to devise a way to assure an authorization base for public broadcasting.

The PRESIDING OFFICER. Who now yields time?

Mr. ROCKEFELLER. Will the Senator yield?

Mr. HOLLINGS. I yield to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, not wishing to be redundant in my remarks, may I just simply say that I support the chairman of the Commerce Committee. His argument has much merit and I think it is deserving of the most serious consideration by this body. I think all of us support public broadcasting. We have said so in speeches, in articles, and other remarks. This is the time to show our support.

I thank the Senator.

Mr. HOLLINGS. Mr. President, my colleagues from Missouri said we might have a spectrum auction. He knows better. We struggled all year long with the spectrum auction ever since the President recommended that in January. We could not get a vote on the entire committee, not one vote. Broadcasting has this fixed. And then he ends up and says why vote for a tax we do not need?

Now, most respectfully, I heard years back when I came here, Washington was the only insane asylum in the world run by the inmates; they were trying to make marijuana legal and make tobacco illegal. We are struggling at midnight to find $9 billion in increased taxes so on January 1, in 20 days, we can decrease it $17 billion. And now even if you adopt the leadership package word for word you would still have a $140 billion deficit.

Do not need? We have cried for the Corporation of Public Broadcasting. I have never seen a more outstanding group, both in radio and television. We have been loyal to them and they have been loyal to the people and they certainly have not been polishing by putting us on or taking us off programs. I participate very seldom, but I have been in this public broadcasting since we started the State system back over 25 years ago. And right to the point, we need to stabilize the financing of this magnificent system.

We cannot get an authorizing bill through President Ronald Reagan. He red-lines it. So I am not a bit surprised how he is now reacting. But the point is we need to stabilize it and the best way in the world is to take a spectrum fee that is unanimously supported by the Congress, voted on, by the President, suggested in his budget, and by all users of the spectrum including the broadcasters. They believe in a spectrum fee but not for themselves.

If you want to vote that selfishness, I hate to be the one preaching, I hate to be the one preaching, but if you want to draw down about what is needed, if you want to be that selfish, go ahead because we need it. We need it for the deficit. We need way more, another $140 billion to get ours straightened out here and get us in line with municipal government and State government at every level. They have to pay their bills. Just vote for taxes because we like them? Voting for paying bills because we like to pay the bills and more than anything else we would like to set up a good trust fund supported across the board by everyone for public broadcasting?

I yield my remaining time to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. ROCKEFELLER. I thank the Senator from South Carolina.

I ask the Senator from Missouri if he will yield to me for a question.

Mr. DANFORTH. Yes.

Mr. ROCKEFELLER. The Senator made a point that what we are trying to do here is shoehorn the public broadcasting money into an inappropriate vehicle. He says that he is very much for public broadcasting, he is not sure about a trust fund, but he is for public broadcasting and presumably for the funding thereof and points to his own work on the matter last year.

But is it not true that the President twice in 1984 vetoed possibilities for this? We had to in fact attach it at the last moment on the Budget Reconciliation Act, and that this really is the point: that we are in fact talking about the substance and the funding of public broadcasting; that at least in this administration and in a previous one in the early 1970's there has been a conscious and real attempt to remove the funding for public broadcasting. This is not a peripheral issue at all but a matter of are we going to have a funding source that we can count on through various administrative philosophies for public broadcasting because, in fact, it has been vetoed by this President? Is that not why we are forced to come to a process like this?

Mr. DANFORTH. I would answer the Senator from West Virginia by saying I really do not think that is the point. I think if that were the point then we would have a hearing on the subject of a trust fund. Then we would proceed to mark up a bill on the subject of a trust fund, and we would fight the battle of public broadcasting. And we would fight the battle of how it is funded and whether or not a trust fund is created in a very open and direct manner. I think that is the way we could handle it.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. DANFORTH. Mr. President, I am on my own time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DANFORTH. What happened here was the members of the Commerce Committee were convened one afternoon for the purpose of addressing the question of reconciliation back when the old original reconciliation bill was still a live item. We met and with no notification at all we were told that the fairness doctrine was a part of the package, and we were given a written couple of pages on what we were doing. There had been no prior notice. We had waived.

As a matter of fact, I had gone around to the minority members of the Commerce Committee and asked them if they would be willing to waive any objection to this hurried meeting. They said of course we will waive any objection to the hurried meeting. We went down, and then were told something we never expected, never understood before; and, that was that the fairness doctrine was going to be codified in this legislation.

I do not think the Members on this side would agree to that. I happen to agree with the fairness doctrine. I agree with codifying the fairness doctrine. But it was done by slipping it into this package on reconciliation.

I have to say to the Senator from West Virginia that I never realized that we had created a trust fund for public broadcasting until the following week. I had been back to Missouri in the interim. I had come back to Washington. I received a telephone call from a constituent informing me for the first time that we had voted to create a trust fund for public broadcasting. I do not think that is right.

I think that public broadcasting has a future in this country, and it certainly should. It is because it touches the basic values that we want to perpetuate. I do not think that it furthers the values that we want to hold up for public broadcasting to try to slip it in. That is what has been done here.

If the Senator from West Virginia wants to introduce a bill on public broadcasting, I may well not support him because I was the one who insisted on extending the authorization to 3 years last year. That is what we did. We have an authorization that goes to 1990. I take pride in having done that.

But I do not believe it is right to try to do it by not informing people, by not having hearings, by not having the markup and slipping it into reconciliation without any prior efforts to accomplish the same thing in the usual way.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. DANFORTH. Of course.

Mr. ROCKEFELLER. I very much respect what the Senator is saying, but again we have come back to that matter of process as opposed to the substance of the issue. I think the Senator will agree that in fact it was on a reconciliation bill in 1985—that this matter for funding for public broadcasting was indeed attached, and the very point at which we are at this moment. Would the Senator not agree with that?

Mr. DANFORTH. The public broadcasting has been, at least when I was chairman of the committee, something on which we held hearings and on which we reached agreement within the committee. It was handled very openly and very directly. That is the way I think it should be handled. But I think really the question here is: Should the Senate of the United States renege on the budget agreement that was reached with the President of the United States and with the other negotiators? Should we renege on it? We have agreed to adopt the leadership package. We have done that. Now should we undo what had been agreed to?

This was not agreed to. This was not part of the deal. This was contrary to what the deal was; contrary to what the leadership came up with. And for that reason, I just do not think we should do it.

Mr. President, if I have any more time, I do not see any other Senator who wants to speak on the subject——

Mr. HOLLINGS. Would the distinguished Senator yield?

Mr. DANFORTH. Of course.

Mr. HOLLINGS. When the Senator says it was not a deal, would he mind if we put in the RECORD a transcript of our particular markup which shows on its face it was allocated to public broadcasting?

I ask unanimous consent that we include it in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Committee on Commerce, Science, and Transportation]

BUDGET RECONCILIATION

WEDNESDAY, OCTOBER 21, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to the Call of the Chair, at 2:35 p.m., in Room S-146, The Capitol, the Hon. Ernest F. Hollings (chairman of the committee) presiding.

Present: Senators Hollings, Inouye, Ford, Riegle, Exon, Gore, Rockefeller, Kerry, Breaux, Danforth, Kassebaum, Stevens, Kasten, and McCain.

The CHAIRMAN. It was envisioned in the present January budget that there be a vote, and we continued to discuss our debate on and off the floor and with our colleagues, and we never could get, frankly, a vote to support that. As an alternative, and I am somewhat embarrassed that we have not been able to conform with the reconciliation construction on the Committee. We all have been talking back and forth of what are the ways to approach this.

We thought of two ways to comply: one with the transfer fee; and the other with the Coast Guard fee that we passed out of this Committee, Senator Stevens' and my bill last year. Under the transfer fee, what we would charge is 2 percent on the transfer. In other words, on everyone that sells a station, upon the transfer just like if you sell your property in downtown Washington, it is 1 percent in and 1 percent out. There would be a 2 percent transfer fee.

It would be 4 percent for broadcast licenses transferred within three years. In other words, we have been trying to do something to cut down on the trafficking of licenses in a lesser period than some three years.

We checked with CBO, and that brings in $340 million. The Coast Guard, what I call the WEP triple E, that is, you either pay for the rescue effort, you pay for the rescue effort we have or you buy a membership. The Coast Guard fee as proposed by Senator Stevens and we reported out as a Committee last year would bring in $50 million.

We have the allocation of the transfer fee funds of some $340 million to the two years of our reconciliation construction, and thereafter, allocated to public broadcasting.

There is an element in here also with respect not only to the trust fund to go to public broadcasting, but the compliance with the Fairness Doctrine to the effect that the fee, instead of 2 percent would be 3 percent, 1 percent more.

We have talked this around and I hope it is all in front of you. We would be glad to discuss it and answer any questions that there are.

Senator INOUYE. We have a quorum, Mr. Chairman.

Senator DANFORTH. Mr. Chairman, on this transfer fee, what would be the effective date?

The CHAIRMAN. The effective date, you would have to do it after the enactment of the bill. You cannot say after October 1, because you cannot figure it in. We have changed that, to the enactment of the bill.

Senator DANFORTH. The enactment of the bill.

The CHAIRMAN. Yes. It cannot be retroactive. I would rather lose a few million bucks, or whatever they are. Incidentally, those particular licenses increase about 10 percent each year and they continue to increase, and we continue to lose out entirely on them.

I think it is a manifestly good way of trying to respond to our reconciliation and not being punitive. I know if you have, for example, an inspection fee, I would go in and bid in my area as high as I could go to cut out the competition. This way, it only falls on those who transfer, and everybody pays alike.

Senator STEVENS. Where did you get this 315 E thing on the Fairness Doctrine? How does that come in here?

The CHAIRMAN. What we are trying to do is get that back in.

Senator STEVENS. You do not want my vote then? [Laughter.]

The CHAIRMAN. Oh, yes.

The Coast Guard one, Ted, you can describe it. This is the one that you put in. It is a user fee charge schedule for different types of direct services.

The Secretary would also establish an SOS stamp system, involving the sale of the stamp permitting purchasers to receive the Coast Guard services without charge, and the Secretary would not be authorized to charge a users fee unless users have had a reasonable opportunity to purchase the stamp.

It is the same bill that we reported out and debated in the Committee.

Senator STEVENS: Well, they came at us in the first place, remember Mr. Chairman, with a request for a user fee applied by tonnage and by length of the boat and what the function of the boat was. It got so subjective that it cost so much money to really put it into effect.

I suggested that let us just have a stamp similar to the duck stamp concept. If you have a stamp then you still do not have to pay any fees if you asked for service from the Coast Guard, that is, for towing and that sort of service.

If you do not have the stamp, then it would be subjected. You would be assessed a fair value for the service you asked for, and that can be substantial for a weekend boater to be towed back into port.

I suggest that it is an offer that every boater would not be able to refuse. It is the kind of stamp that everyone would have. It amounts to a support of the Coast Guard. Everyone that I have talked to said fine, I will pay that.

The CHAIRMAN. Senator Inouye moves that we have 11 and now we have 12.

Senator INOUYE. I move that the section be adopted, subject to amendment.

Senator MCCAIN. Mr. Chairman, I have some further discussion before the vote.

The CHAIRMAN. Surely.

Senator MCCAIN. I do not understand the rationale for codifying the Fairness Doctrine as we are trying to work on reconciliation here and trying to get everybody to agree.

It is a very controversial issue, and one that would not have a place whether you happen to support or not support the Fairness Doctrine.

Perhaps you could illuminate me on why it is necessary to have that in this reconciliation.

The CHAIRMAN. Well, you are fairly well illuminated. I think we are all illuminated on that particular score, John, you know that. [Laughter.]

Senator McCAIN. In the interest of fairness, do you not want to drop that out?

The CHAIRMAN. No, I would like to put it in there and just put it as a part of this particular measure. We have got it and have had it before our Committee.

The question is, should we move it or do you want to get an amendment? Should we report it? I do not want you folks to leave before we report it, subject to amendment.

Senator RIEGLE. I second.

All in favor, say aye.

(A chorus of ayes.)

Senator KASSEBAUM. Wait just a second.

The CHAIRMAN. Yes, ma'am.

Senator KASSEBAUM. Excuse me. What are we reporting, subject to amendment?

The CHAIRMAN. These two proposals. I still do not know where the Fairness Doctrine is, is that what we are talking about that could be amended?

Any part of this can be amended.

Senator DANFORTH. I was going to ask a question about the Coast Guard.

The CHAIRMAN. Yes.

Senator DANFORTH. We had a proposal last year, correct, on this?

The CHAIRMAN. Right, and this is it.

Senator DANFORTH. A draft type thing?

The CHAIRMAN. Yes.

Senator DANFORTH. Is this identical to what we agreed upon last year?

The CHAIRMAN. That is identical to it. That is what I asked to have passed.

Senator DANFORTH. We are passing the same version?

The CHAIRMAN. The same version of it, that is right.

Subject to amendment, all in favor of reporting it, say aye.

(A chorus of ayes.)

The CHAIRMAN. Opposed?

Senator STEVENS. The Fairness Doctrine——

Senator KASTEN. Mr. Chairman, can we have a record vote on that question, so that we can have it clear about on which side these people were?

The CHAIRMAN. Sure.

Senator KASTEN. I think some of us are confused. You got the votes, but I think some of us would like to be on record.

Senator STEVENS. I would move to delete the 1 percent fee for those who are found to be willfully violating the Fairness Doctrine, which no longer exists.

The CHAIRMAN. You heard the motion and you want a roll call?

Senator STEVENS. I want everyone to understand what happened, because if this goes to reconciliation it means that it is going to be a very controversial thing for some of us. Support reconciliation, period.

This ought not to be there. It is just putting a 1 percent fee on a doctrine that the FCC already has.

Senator KASTEN. Mr. Chairman, I simply asked for a record vote on the question that we just prevailed on a voice vote, as to reporting the bill subject to amendment.

The CHAIRMAN. Let us get that. Let us have a record vote. The Clerk will call the roll.

The CLERK. Mr. Inouye?

Senator INOUYE. Aye.

Senator BREAUX. Mr. Chairman, before we call, are we voting on what, just the Coast Guard user fees?

The CHAIRMAN. No. We are reporting on the whole matter, subject to amendment.

Senator STEVENS. It will still be subject to amendment?

The CHAIRMAN. Right.

The CLERK. Mr. Ford?

Senator FORD. Aye.

The CLERK. Mr. Riegle?

Senator RIEGLE. Aye.

The CLERK. Mr. Exon?

Senator EXON. Aye.

The CLERK. Mr. Gore?

Senator GORE. Aye.

The CLERK. Mr. Rockefeller?

Senator ROCKEFELLER. Aye.

The CLERK. Mr. Bentsen?

The CHAIRMAN. Aye, by proxy.

The CLERK. Mr. Kerry?

Senator KERRY. Aye.

The CLERK. Mr. Breaux?

Senator BREAUX. Aye.

The CLERK. Mr. Adams?

Senator ADAMS. Aye.

The CLERK. Mr. Danforth?

Senator DANFORTH. Aye.

The CLERK. Mr. Packwood?

Senator DANFORTH. No, by proxy.

The CLERK. Mrs. Kassebaum?

Senator KASSEBAUM. No.

The CLERK. Mr. Pressler?

(No response.)

The CLERK. Mr. Stevens?

Senator STEVENS. No.

The CLERK. Mr. Kasten?

Senator KASTEN. No.

The CLERK. Mr. Trible?

(No response.)

The CLERK. Mr. Wilson?

(No response.)

The CLERK. Mr. McCain?

Senator McCAIN. No.

The CLERK. Mr. Chairman?

The CHAIRMAN. Aye.

Mr. Adams votes aye by proxy. He is presiding today.

The CLERK. There are twelve ayes and five nays.

Senator DANFORTH. Mr. Chairman?

The CHAIRMAN. Yes, sir.

Senator DANFORTH. Mr.Chairman, I have stood by you on the floor on the Fairness Doctrine. We have made this argument together, and I agree with you on the Fairness Doctrine. But, it is clear that on our side at least, there are very strong feelings against it.

Obviously, very strong feelings in the Administration on this subject. And for that reason, I really believe that I had no idea that the Fairness Doctrine was going to be a part of this. In fact, we have not had an opportunity to study the whole thing. At least some of our members have raised questions to this whole concept. I thing we have gone along with that.

I really think that it really is pushing it a little bit too far to try to deal with the Fairness Doctrine in this legislation. Therefore, I would move that we delete the Fairness Doctrine provision.

The CHAIRMAN. Very good. You have heard the motion. Is there any discussion?

(No response.)

The CHAIRMAN. Do you want to call the roll on that?

The CLERK. Mr. Inouye?

Senator INOUYE. No.

The CLERK. Mr. Ford?

Senator FORD. No.

The CLERK. Mr. Riegle?

Senator RIEGLE. No.

The CLERK. Mr. Exon?

Senator EXON. No.

The CLERK. Mr. Gore:

Senator GORE. No.

The CLERK. Mr. Rockefeller?

Senator ROCKEFELLER. No.

The CLERK. Mr. Bentsen?

The CHAIRMAN. No, by proxy.

The CLERK. Mr. Kerry?

Senator KERRY. No.

The CLERK. Mr. Breaux?

Senator BREAUX. No.

The CLERK. Mr. Adams?

The CHAIRMAN. No, by proxy.

The CLERK. Mr. Danforth?

Senator DANFORTH. Aye.

The CLERK. Mr. Packwood?

Senator DANFORTH. Aye, by proxy.

The CLERK. Mrs. Kassebaum?

Senator KASSEBAUM. Aye.

The CLERK. Mr. Pressler?

(No response.)

The CLERK. Mr. Stevens?

Senator STEVENS. Aye.

The CLERK. Mr. Kasten?

Senator KASTEN. Aye.

The CLERK. Mr. Trible?

(No response.)

The CLERK. Mr. Wilson?

(No response.)

The CLERK. Mr. McCain?

Senator McCAIN. Aye.

The CLERK. Mr. Chairman?

The CHAIRMAN. No.

The CLERK. There are 6 ayes and 12 nays.

Senator DANFORTH. How much money did we raise, Mr. Chairman?

The CHAIRMAN. Well, I think $340 plus the $50 is $390.

Senator DANFORTH. What was our goal?

The CHAIRMAN. The $394. The $340 could be more. I say that because CBO just gave us an earlier estimate, and I think we can get them up $4 million.

Thank you very much.

(Whereupon, at 2:55 p.m., the hearing adjourned.)

Mr. HOLLINGS. As the Senator refers to, did not the chairman include public broadcasting funding in 1985 on the reconciliation bill? The Senator from Missouri was the chairman.

Mr. DANFORTH. Of course, I did.

Mr. HOLLINGS. I thank him very much. I am just trying to follow his lead.

Mr. DANFORTH. No; not quite. We had hearings on the subject. We notified the members of the committee about what we were doing. I do not recall. I am glad the transcript is going in the RECORD but I do not recall any discussion in the Commerce Committee on creating a trust fund for public broadcasting. Maybe it was discussed.

Mr. President, I yield back the balance of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, in voting to support Senator DANFORTH's motion to strike title I, I want to nevertheless, reiterate my support for public broadcasting and my recognition of the value of there being a stable source of funding for it. However, as title I is presented to us on the floor tonight, we would have to agree to Coast Guard user fees as well. I have long been concerned about the administration's attempts to impose Coast Guard user fees as a matter of policy and as a matter of the disproportionate impact that they would have on my constitu-

ents in Michigan. As attractive as the public broadcasting elements of title I are to me, I cannot support that title as long as it includes these new Coast Guard user fees.

The PRESIDING OFFICER. All time has expired.

AMENDMENT NO. 1265

Mr. HOLLINGS. Mr. President, I move to strike. This is a motion to strike as contained on several pages. It has been checked by the distinguished Senator from Missouri.

I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 1265.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 19, strike the comma and insert in lieu thereof a period.

Strike all from line 20 on page 2 through line 2 on page 3.

On page 3, line 7, strike ", or 5".

On page 3, strike lines 8 through 9 and insert in lieu thereof "of".

Strike all from line 18 on page 6 through line 10 on page 7.

Mr. HOLLINGS. That is what we did. This amendment was sent to the Senator from Missouri, and he changed it a little bit.

Mr. DANFORTH. Mr. President, my motion to strike goes to the entire title I. What Senator HOLLINGS is doing, in effect, is to agree to strike that portion of title I that codifies the fairness doctrine.

So, if we agree to this—and I, of course, am agreeable to it—this would still leave in title I, the two taxes, the Coast Guard user fee and the transfer fee for the radio and TV stations, and would also leave in the trust fund for public broadcasting. Of course, I agree with striking the fairness doctrine.

Mr. HOLLINGS. Mr. President, in order to save time. I yield back our time on the amendment.

Mr. DANFORTH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1265) was agreed to.

Mr. HOLLINGS. Now we go to the Danforth amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ARMSTRONG (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK]. the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 28, as follows:

[Rollcall Vote No. 407 Leg.]

YEAS—66

Baucus	Exon	Mitchell
Bentsen	Garn	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Packwood
Boschwitz	Hatch	Pell
Bradley	Hatfield	Pressler
Breaux	Hecht	Proxmire
Bumpers	Heflin	Pryor
Chafee	Heinz	Quayle
Cochran	Helms	Riegle
Cohen	Humphrey	Roth
Conrad	Karnes	Sanford
D'Amato	Kassebaum	Shelby
Danforth	Kasten	Simpson
Daschle	Levin	Specter
DeConcini	Lugar	Stafford
Dixon	Matsunaga	Stennis
Dole	McCain	Stevens
Domenici	McClure	Symms
Durenberger	McConnell	Trible
Evans	Melcher	Wallop

NAYS—28

Adams	Inouye	Rockefeller
Biden	Johnston	Rudman
Byrd	Kennedy	Sarbanes
Chiles	Kerry	Sasser
Cranston	Lautenberg	Thurmond
Ford	Leahy	Warner
Fowler	Metzenbaum	Weicker
Glenn	Mikulski	Wirth
Graham	Nunn	
Hollings	Reid	

ANSWERED "PRESENT"—1

Armstrong

NOT VOTING—5

Burdick	Gore	Wilson
Dodd	Simon	

So the amendment (No. 1264) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I take the floor at this time just to acquaint Senators with the program for tomorrow and to thank all Senators on both sides of the aisle for the very excellent cooperation that the leadership on both sides had received from all Senators.

The reconciliation bill which was expected to take a couple of days at least is about to be passed. I understand that there are no further amendments that would require rollcall votes in the judgment of the managers. There are technical amendments, and so on.

I would like to have the first rollcall vote begin tomorrow morning at 9:30. It will be a half-hour rollcall vote and it will be a vote on the nomination for the Secretary of Labor.

So this rollcall vote will begin at 9:30. It will be a 30-minute rollcall vote.

Then the Senate will proceed to the continuing resolution.

Now, if we do not finish the continuing resolution tomorrow, we have no alternative but to be in Saturday and work on that continuing resolution. Midnight of next Wednesday is the deadline and if we do not have a continuing resolution that is adopted, goes to conference, goes to the President, is signed by the President by midnight next Wednesday, there has to be another temporary extension.

So the sooner that we can get that continuing resolution to conference, the sooner we are going all of us home.

If we are in Saturday, we have to be back in Monday if we do not finish. So I would urge Senators to think about this this evening and see if they cannot within their own minds and hearts decide to restrain themselves on calling up amendments.

Let us not have the usual Christmas tree effort here as we are so close to Christmas time. Let us avoid calling up amendments if we can possibly do so. Obviously there are only going to be few amendments called up. We have, I believe, four pages of single-spaced amendments. That is folly. So I am urging all Senators on both sides to think over tonight and in the morning we will have our joint whip groups contact Senators and see if they want to agree not to call up their amendments.

And those who feel so bound and compelled to call up amendments, we will ask them if they will be agreeable to entering into a time agreement on the amendment. Let us finish the CR tomorrow night. It seems to me we ought to be able to take up necessary amendments tomorrow and dispose of them. I understand from the Republican leader that they have seven amendments on his side of the aisle.

Mr. DOLE. I think the word got out. It is up to 15. But we could probably whittle that down with a little pressure.

Mr. BYRD. I hope that we will pray about it tonight and that we will remember that if we do not get this CR finished, we only have one more week and then it is Christmas week. I do not believe anyone in here relishes the idea of being in here on Monday of Christmas week, or Tuesday of Christ-

mas week, or Wednesday of Christmas week.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. Can I assume we will be meeting again next year? In case anybody does not get to do it tomorrow, they could do it early next year probably.

Mr. BYRD. Yes. And if we have the kind of cooperation that we had on this reconciliation measure, they will not come back next year until the 25th of January.

So I again thank you all, and I hope that you will consider cutting these amendments down. Let us desist in calling up amendments to the CR.

Now, having said all that, inasmuch as there are not going to be any rollcall votes on amendments tonight, if no Senator indicates he wants a yea and nay vote on final passage, let us call it a day.

All right, there will be no more rollcall votes on this matter or any other today.

Mr. CHAFEE. Mr. Leader, you mentioned that if we made good progress on the CR tomorrow and perhaps if we finished it Saturday, would we be in Monday or have you any indication on what we will do on Monday?

Mr. BYRD. If we finish tomorrow, we will not be in on Saturday. If we do not finish it tomorrow, we will be in Saturday.

Mr. CHAFEE. And if we finish on Saturday, do you have any thoughts on Monday?

Mr. BYRD. If we finish it on Saturday, we will not be in on Monday because this is all we are going to do unless we have items that can be passed by unanimous consent. This is all, the CR and the reconciliation measure.

I thank everyone. There will be no more rollcall votes today.

Mr. STEVENS. Mr. President, just before the Senate retires tonight, I want to indicate that I would have asked for a rollcall vote——

The PRESIDING OFFICER. The Senate will be in order. The Senator from Alaska has the floor.

Mr. STEVENS. I would have asked for a rollcall vote. I will not do so. But I want to register a strong objection to one portion of this bill. I think all Members ought to know what is in it, because I think you will rue the day that you did not vote on this section.

I have tried now for several days to get a costing out by the Office of Management and Budget for an alternative to a section in the Government Affairs portion of the leadership amendment. That portion requires the Postal Service to delay its capital investment programs and absorb the Federal employee cost within its overall budget.

Mr. BYRD. Mr. President, the Senator is entitled to be heard. May we have order?

The PRESIDING OFFICER. The majority leader is right. The Senate is not in order. The Senator from Alaska has the floor and wishes to be heard. Will Senators please take their seats and refrain from talking?

Mr. STEVENS. I thank my friend, the majority leader and the Chair.

Let me repeat. This provision requires the Postal Service to delay its capital investment program and to absorb the Federal employee health benefit costs within its overall budget to cover the cost of these reforms.

It specifically states that an increase in rates, borrowing, or operating budgets will not be allowed to finance these new payments.

Now, Mr. President, we have not appropriated moneys for the operation of the Postal Service since 1982. Prior to the organization of the Post Office in 1970, one-fourth of the Postal Service budget was paid from the Treasury. And the Postal Service has, in fact, lived up to its requirement under the existing law to break even. We have a constitutional responsibility——

Mr. GLENN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Ohio raises a point of order that the Senate is not in order. Will Senators please take their seats? Staff will please leave the rear of the Chamber or be seated.

The Senator from Alaska.

Mr. STEVENS. Again, I thank the Chair.

We have a constitutional responsibility, Mr. President, to maintain Post Offices, and post roads. Under this bill, the Postal Service will not be able to spend for capital expenditures—and I will put the list of capital expenditures in the RECORD so you will see what this bill does to every State in the Union almost—money it has already borrowed. It has borrowed this money at 9 percent, a billion-and-a-half dollars at 9 percent interest, to build these needed projects to maintain postal service in this country. This says they cannot spend that money, notwithstanding the fact they are paying interest on it.

Now, in addition to that, since it prevents raising rates in 1988 and 1989, I predict for you that the postal stamp rate in 1990 will exceed 30 cents. It is now 22 cents.

Mr. President, since I have been in the Senate I have been on the Post Office and Civil Service Committee. I think I have served on that committee longer than any Member of the Senate now. And I tell you I have never seen anything done to the Postal Service under the guise of budget control as this bill does. The guidance from the leadership amendment was to raise $850 million in the first year from Federal personnel costs. And what was it, 1.4 in the second year?

Mr. DOMENICI. No; the same amount.

Mr. STEVENS. The same amount in the second year. That entirely was placed upon the Postal Service, with a prohibition not only against raising rates, but against using the money it has already borrowed and on which it has to pay interest.

The Federal Government is one of the largest users of the Postal Service. We have shot ourselves in the foot because by 1990 we will be using 30-cent stamps instead of 22-cent stamps, and we call this budget control.

Further, the interest in the 2 years that they cannot use the money is entirely lost.

Now, there is going to be a real great impact on third-class mail. A lot of people say to me, "Why do you want all that mail?" Third-class mail is the mail that brings in the revenue to maintain the Postal Service today. There are people in this country that want to do away with the Postal Service. They say to me, "privatize it." And that includes some people down at OMB today who have led the Congress to this decision today, at least the Senate so far, to this decision not to pursue Federal personnel cost reductions and instead to put this on the Postal Service, contrary to the Postal Reform Act of 1970.

Mr. DOMENICI. Will the Senator yield?

Mr. STEVENS. In just a couple of minutes, I will.

A significant loss in third class mail revenues will mean operating costs will go up and that will increase the possibility that we will have even a higher cost stamp, because the third class revenues go down. And that is what is going to happen if we do not buy the equipment which will be listed on the pages I am going to put in the RECORD.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. Members of the Senate staff will retire from the Chamber or be seated.

Mr. BYRD. Mr. President, the Chair is entitled to the respect of Members as are the Senators who speak. I urge the Chair to continue until it gets the order that it is asking for.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. It is late at night but I have waited. I did not want to disrupt this. I support the leadership concept. But as the members of the Governmental Affairs Committee know, I have objected all along to this concept of where these savings would come from.

Those third-class revenue dollars are not going to be regained and we are witnessing the beginning of the privatization of the Postal Service, which

means a great deal to my part of the country. To the rural portions of this country that still depend on the mail service for delivering communications and for delivering needed parcel post, this is the beginning of the end of the Postal Service as we have known it.

Now, I understand, everybody says this is the only thing we could do under the circumstances. Unfortunately it is the only thing we can do because we could not get costed out any other alternative that I tried to raise.

I see my good friend from Ohio, Senator GLENN, the chairman of our committee, is on his feet. I congratulate him for trying. I want everybody to know the committee has tried to get costed out a series of alternatives to this proposal which would not have done this damage to the Postal Service. I do not know what we can do to stop a bill when it comes back from conference but if this is still in there I intend to use every right I can to try and see if we can send it back to conference again. Because this is wrong. This is absolutely wrong, to allow us to be used by someone who wants to compel, really, the destruction of the Postal Service to give us only one alternative to meet this goal and that is what this is in my opinion.

I asked for and received a briefing paper on the program implications of this action. I ask unanimous consent it be printed in the RECORD after my remarks. I ask that a chart be printed that has been prepared by my staff, "Implications of Outlay Reductions on Facility Program." This is the loss of post offices, of new equipment, and what it means in terms of the handling of bulk mail as well as regular mail.

I ask that a factsheet on the actions necessary to reduce capital expenditures in 1988 and 1989 prepared by the Postal Service be printed in the RECORD after that and a statement by the Chairman of the Board of Governors of the Postal Service be printed thereafter.

I have taken this action to put you all on notice. In my opinion, we have no alternative tonight. We have no alternative tonight and I am not critical of anyone who has sought this vote of the Senate on this provision as being the only alternative available. But I tell the Senate: Unless we can get the readouts on the budget implications of suggested alternatives from the Office of Management and Budget, under the way the Gramm-Rudman-Hollings procedure is now laid out, we are completely at their mercy in terms of how they will read out a suggested alternative to something they have sent us.

Unless we can get them, we are going to be nothing but rubber stamps for people who have ideas as to how to change this country; people who have never been elected, will never be voted for or against. We are. We are sent here to represent our people and, I tell you, I tell the Members of the Senate, this is wrong. It is wrong to be put in that position. It is wrong to be painted into a corner by a procedure we have created to give ourselves the discipline to bring about the reduction of this budget.

Mr. President, I think there has to be an alternative. We have suggested alternatives such as a mandatory restriction against hiring replacements for vacancies not caused by retirement. Hiring one out of three, for instance, could be costed out and, over a period of about 9 months, make up this kind of money in this fiscal year. That was objected to because we cannot get it costed out.

We suggested other ways to require the President to make the savings that are brought about by not filling vacancies that occur during this period. The Senator from Ohio suggested other solutions, which I found more palatable. Not totally acceptable, I would say to my good friend, but more palatable than the alternative that is in this bill.

But, Mr. President, we still have the best Postal Service in the world. Our country has a Postal Service which I like to remind people, in the days when the Postal Service, the old Post Office Department delivered mail for 3 cents, we bought ice cream cones for a nickel. Now I challenge you to find an ice cream cone anywhere close to 22 cents.

The efficiency of this Postal Service has been maintained contrary to the jibes against it. It can do the job and will do the job if we will only not shackle it. Can you imagine telling people who borrowed $1.5 billion to modernize the best Postal Service in the world they have to pay interest on the money but they cannot use it although they have to modernize equipment to ensure delivery of the increasing volumes of mail in this country? That is what we have done, Mr. President.

I am going to sit down but I urge everybody to study these charts. If anybody has any questions now I would say to my friend I would answer them; but again I am not to be interpreted as being critical of the managers of this bill or the leadership amendment. That is the thing we must do but we have got to find a way out of this dilemma. I thank the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLICATION OF OUTLAY REDUCTIONS ON FACILITY PROGRAM

[In millions of dollars]

Post Office and State	Project description	Necessary action	Estimated project cost	Outlay impact	
				Fiscal year 1988	Fiscal year 1989
Phoenix, AZ	South Central Station	Cancel project	$6.8	$2.0	$4.8
Arizona total			6.8	2.0	4.8
Alhambra, CA	General Mail Facility	Suspend construction award	61.7	0.0	8.0
Beverly Hills, CA	Main Post Office	do	21.3	8.0	3.0
Carmichael, CA	do	do	6.3	2.0	2.0
Escondido, CA	do	do	9.2	3.0	6.2
Los Gatos, CA	Carrier Annex	do	5.2	1.5	3.7
Long Beach, CA	N. Long Beach Station	do	6.3	2.0	4.3
Los Angeles, CA	Rancho Park Station	do	12.2	3.0	9.0
Laverne, CA	Main Post Office	do	5.6	1.6	4.0
Manhattan Beach, CA	do	Suspend construction award	9.6	3.5	3.5
Marysville, CA	General Mail Facility	Cancel project	10.0	3.0	6.0
Palos Verdes, CA	Main Post Office	Suspend construction award	9.9	3.7	3.7
San Diego, CA	Linda Vista Station	do	6.5	1.5	1.5
San Diego, CA	General Mail Facility	Cancel project	65.5	0.0	33.0
Sacramento, CA	do	Suspend construction award	96.4	0.0	5.0
California total			325.5	32.8	92.9
Aurora, CO	Main Post Office	Suspend construction award	9.8	2.8	2.8
Denver, CO	General Mail Facility	do	75.5	36.0	36.0
Do	University Station	do	7.0	1.5	1.5
Colorado total			92.3	40.3	40.3
Boca Raton, FL	Sandlefoot Branch	Cancel project	5.2	2.6	2.6
Daytona Beach, FL	General Mail Facility	do	9.2	3.0	6.2

IMPLICATION OF OUTLAY REDUCTIONS ON FACILITY PROGRAM—Continued

[In millions of dollars]

Post Office and State	Project description	Necessary action	Estimated project cost	Outlay impact	
				Fiscal year 1988	Fiscal year 1989
Fort Myers, FL	do	do	32.3	4.0	14.0
Fort Lauderdale, FL	Northwest Branch	do	5.4	1.0	4.4
Gainesville, FL	General Mail Facility	Suspend construction award	20.7	8.5	8.5
Jacksonville, FL	Bulk Mail Center Exp	Cancel project	65.8	4.0	15.0
Miami, FL	Sunset Branch	do	5.3	1.0	4.3
Do	Airport Mail Facility	Suspend construction	2.5	1.3	1.2
Do	N. Miami Branch	Cancel project	5.8	1.0	4.8
Do	Krome Branch	do	6.5	2.0	4.5
Orlando, FL	Mid-Florida GMF	Suspend construction award	39.7	17.0	17.0
Ormond Beach, FL	Main Post Office	Cancel project	5.0	1.0	4.0
Panama City, FL	General Mail Facility	do	7.6	1.6	6.0
Pompano Beach, FL	N. Lauderdale Branch	do	5.2	1.2	4.0
Tampa, FL	South Tampa Bay Annex	do	33.4	5.0	12.0
Miami, FL	S. Florida MPA	do	48.4	14.0	17.2
West Palm Beach, FL	Wellington Branch	do	5.6	1.0	4.6
Florida total			303.6	69.2	130.3
Athens, GA	General Mail Facility	Suspend construction award	10.7	4.8	4.8
Atlanta, GA	North Georgia GMF	do	82.1	33.0	33.0
Georgia total			92.8	37.8	37.8
Champaign, IL	General Mail Facility	Suspend construction award	17.5	5.0	5.0
Chicago, IL	Graceland Station	Cancel project	9.3	4.0	5.3
Do	Bulk Mail Center Expan	do	26.4	2.0	12.2
Do	South Suburban GMF	do	26.3	6.0	10.0
Do	O'Hare Mail Proc. Annex	do	51.6	3.0	3.0
Do	Main Post Office	do	102.0	5.0	11.0
Do	Southwest Suburban MPC	do	29.0	0.0	2.0
Illinois total			262.1	25.0	48.5
Topeka, KS	Mail Processing Annex	Suspend const. award	11.1	5.0	5.0
Kansas City, KS	Bulk Mail Center	Cancel project	19.6	0.0	1.5
Kansas total			30.7	5.0	6.5
London, KY	Mail Processing Annex	Suspend const. award	7.3	3.5	3.5
Bowling Green, KY	General Mail Facility	do	7.7	2.5	2.5
Kentucky total			15.0	6.0	6.0
Kansas City, MO	Main Post Office	Cancel project	53.0	2.0	3.5
Missouri total			53.0	2.0	3.5
Worcester, MA	Mail Processing Annex	Cancel project	37.6	11.0	0.9
Massachusetts total			37.6	11.0	0.0
Minneapolis, MN	Main Post Office	Cancel project	33.7	0.0	16.8
Minnesota total			33.7	0.0	16.8
Bronx, NY	Vehicle Maintenance Fac	Cancel project	14.0	0.0	7.0
Brooklyn, NY	Main Post Office	do	160.1	25.0	
New York, NY	Manhattan GMF	do	213.0	0.0	6.0
Do	Murray Hill Station	Cancel renovation	22.4	0.0	3.5
Poughkeepsie, NY	Mid-Hudson GMF	Suspend const. award	29.9	13.5	13.5
Watertown, NY	Mail Processing Annex	Cancel project	9.5	3.0	6.5
New York total			448.9	41.5	36.5
Cincinnati, OH	Mid-City Station	Cancel project	9.0	4.5	4.5
Cleveland, OH	Air Mail Facility	do	10.7	5.7	5.0
Ohio total			19.7	10.2	9.5
Lehigh Valley, PA	General Mail Facility	Suspend const. award	40.6	18.5	18.5
Philadelphia, PA	Air Mail Facility	Cancel project	40.1	4.5	18.0
Do	Bustleton Station	Suspend const. award	5.7	1.4	1.4
Harrisburg, PA	General Mail Facility	Cancel project	54.3	6.0	0.0
Pennsylvania total			140.7	30.4	37.9
Bryan, TX	General Mail Facility	Suspend construction award	13.6	5.5	5.5
Dallas, TX	North Dallas MPC	do	72.1	27.8	27.8
Houston, TX	North Houston MPC	do	78.7	33.5	33.5
Texas total			164.4	66.8	66.8
Dulles, VA	Airport Mail Facility	Cancel project	13.3	7.0	7.0
Centerville, VA	Main Post Office	do	5.7	2.5	2.5
Virginia total			19.0	9.5	9.5
Charleston, WV	GMF Expansion	Cancel project	15.9	9.5	6.4
Clarksburg, WV	General Mail Facility	Suspend const. award	17.7	7.0	7.0
West Virginia total			33.6	16.5	13.4
New Construction grand total			2,068.3	405.4	578.5

FACT SHEET

Purpose: Potential Actions Under Consideration to Reduce Capital Expenditures in Fiscal Years 1988 and 1989

Immediate halt in the Major Facility (+$5 million) Program. 70 expansion or replacement projects for major mail processing centers would be cancelled.

Scale back plans for replacement of Technical Training Center in Norman, Oklahoma.

Immediate halt in the regional new construction program. This would involve cancelling approximately 250 Main Post Office or stations in each of the two years.

Suspend site acquisition program.

Suspend Long-Life Vehicle program, and terminate the delivery of approximately 18,000 vehicles in each of the two years.

Cancel awards for 1962 Intermediate Vehicles.

Cancel contract award for 407 semi-trailers and 122 truck tractors.

Cancel contract awards of 118 Flat Sorting Machines.

Cancel award of 224 Bar Code Sorters.

Cancel award of Standard Field Computer System.

Cancel the award of contract for 35,924 Integrated Retail Terminals.

Cancel the award of contract for 17,700 Retail Vending equipment modules.

Suspend new contract awards for all Automatic Data Processing equipment.

MAIL PROCESSING DEPARTMENT

Air to highway diversion: A 1986 study indicated a potential savings of $101 million. (Minimal service impacts as measured by average days to delivery.)

6AM to 6PM Processing: A 1986 model of two facilities indicated a potential savings of $633,000 in Wichita and $900,000 in Omaha. (Approximately 50% of mail at those facilities would be delayed one day.)

Eliminate Sunday Processing: Relatively minor savings were identified in the 1986 study i.e. $80,000 in Wichita and $200,000 in Omaha. (Seven to ten percent of mail at those facilities was estimated to be delayed one day under this proposal.)

Eliminate the two day service standard.

Eliminate all service measurement systems ($15m).

Eliminate the Evergreen Network.

Reduce Amtrak System Usage (Estimated Savings Potential of $15m).

Increase the proportion of centralized deliveries: The CAR report indicated that $15 million dollars per year could be saved for every one percent conversion of present door deliveries to centralized delivery.

Explore possibility of "postponing" MLOCR deployment and make expanded use of alternative strategies (Postal Soft, Modifications to existing SLOCRS to allow second line read for box section mail).

Cancel or postpone small parcel and bundle sorter procurement.

Eliminate Saturday delivery.

Close post offices on Saturdays.

Reduce retail hours.

Reduce collections (Eliminate Night Owl).

Procure only plastic sacks.

Explore savings potential of privatization of mail transport equipment centers, repair shops etc.

Pursue rural carrier savings through current negotiations (potential for expanded HCR box route utilization).

STATEMENT BY CHAIRMAN GRIESEMER

I want to talk briefly about legislation that is being discussed on Capitol Hill as a part of the current deficit reduction movement.

More than seventeen years ago, the Postal Service was set up as an independent establishment that would stand on its own financial feet and not be a burden to the taxpayers. The Postal Reorganization Act requires the Postal Service to operate on a "break even" basis over time, covering its costs by its revenues. For the past decade or more, it has been just about right on the mark. You could say that it is the one major part of the Government that works within a balanced budget law.

Let me read a short excerpt from President Nixon's 1970 Message to the Congress relative to postal reform. He said:

"I propose that the Post Office Department be reorganized as an independent establishment . . . designed to make it at least as free from partisan political pressure as are such . . . establishments as the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, and the National Aeronautics and Space Administration. The Postmaster General would no longer be a member of the Cabinet . . ., and the Postal Service would be insulated from direct control by the President, the Bureau of the Budget and the Congress."

Some of the legislation now under consideration would go a long way toward turning the postal clock back to where it was before 1970.

This legislation arises out of the current deficit reduction actions. Actions whose main purpose we all support and applaud. For fiscal years 1988 and 1989, it would require the Postal Service to come up with about $1.7 billion in so-called "savings." Roughly half of this would come from a mandated cut of the postal capital budget—funds needed to replace obsolescent buildings and vehicles and bring in high-speed automated processing equipment. The other half would come from a mandated cut of operating expenses—largely wages for employees to sort and deliver the mail. The legislation would require the Postal Service to pay over these "savings" to cover certain health benefit costs and annuity costs of Postal Service retirees. And it would require periodic submission of "productivity improvement plans" and reports to the President and the Congress.

I've no doubt that my colleagues on this Board will agree that the Postal Service should bear its share of the deficit reduction load. I know that the Postmaster General and his management team share this view. But the details of how to do it should be determined by postal management under our general oversight—not by an Office of Management and Budget that has no responsibility at all for the kind of mail service that this country receives.

Slashing operating expenses will surely disrupt the quality of postal services in the near term. Slashing capital expenditures will badly erode the quality, and greatly increase the cost, of postal services in the future. If the Congress determines that the Postal Service should pay more of the cost of retirement benefits for former postal employees, the way to do it is through careful balancing of current and future service needs against a measured calculation of necessary rate adjustments.

PROGRAM IMPLICATIONS

Approximately $2.1 billion in expenditures are required to fund planned capital investment projects in FY 88. At the end of Accounting Period 3 (12/18/87), year-to-date capital expenditures are expected to total $350 million, leaving a remaining plan of $1.79 billion. About two thirds of this remaining amount relates to contract commitments from previous years. Thus the expenditure figure associated with new FY 88 commitments for the remainder of the fiscal year is only about $531 million.

Thus as a practical matter, an immediate $400 million expenditure reduction this year translates into almost a 75% reduction in the Postal Service's Capital Investment Plan for the remainder of Fiscal Year 1988. It would essentially require suspending the Postal Service's Major Facility Program (for projects costing more than $5 million.) This means suspending the construction award or canceling the project for some 75 major projects. (A full list is provided in an attached table.) The negative impact on these programs for FY 88 would be compounded by a further reduction of $500 million proposed for FY 89.

Many of these projects are critical to meeting our service standards, since they are major mail processing centers that are now at operating capacity or housed in obsolete, aging buildings. Deferral of these projects can be expected to hurt operations in the future, particularly in terms of our ability to improve service in major metropolitan areas and to accommodate growth in booming areas.

A TRIBUTE TO DAVE BROCKWAY

Mr. BENTSEN. I would like to pay tribute to Dave Brockway, who is the chief of staff of the Joint Committee on Taxation. He is a man who became chief of staff in 1983, was already an experienced staffer and tax lawyer, and has made an invaluable contribution to the tax laws of this country. He played a major role in the 1986 tax reform. He served in the difficult role of trying to satisfy the House of Representatives and the Senate at the same time, and has done it in an admirable way.

I know that every member of the Finance Committee will want to join me in thanking him for his service and his contribution to his country and we wish him well in his new endeavors as he leaves this service at the end of this year.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time? The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I ask unanimous consent that the text of the leadership amendment already adopted be considered original text for the purpose of an amendment to be offered by Senators BENTSEN, MELCHER, BREAUX, INOUYE, DODD, HATFIELD, ADAMS, EVANS, RUDMAN, HEINZ, HATCH, KENNEDY, DECONCINI, MCCAIN, and myself.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 1266

(Purpose: To establish a National Economic Commission)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] for himself, Mr. DOLE, Mr. D'AMATO, Mr. DOMENICI, Mr. MURKOWSKI, Mr. NUNN, Mr. BUMPERS, Mr. STAFFORD, Mr. GORE, Mr. MITCHELL, Mr. KERRY, Mr. SIMON, and Mr. BYRD proposes an amendment numbered 1266.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE —NATIONAL ECONOMIC COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. . There is hereby established the National Economic Commission (hereafter in this title referred to as the "Commission").

MEMBERSHIP

SEC. . (a)(1) The Commission shall be composed of twelve members until the meeting of the Presidential Electors in December 1988 when it shall be expanded to fourteen members:

(A) two citizens of the United States appointed by the President;

(B) one Senator and two citizens of the United States appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate;

(C) one Senator and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate;

(D) one Member of the House of Representatives and two citizens of the United States appointed by the Speaker of the House of Representatives;

(E) one Member of the House of Representatives and one citizen of the United States appointed by the Minority Leader of the House of Representatives.

(F) two citizens of the United States appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(2) Individuals appointed under paragraph (1)(A) may be officers or employees of the Executive Branch or may be private citizens.

Individuals who are not members of Congress, and are appointed under subparagraphs B, C, D, E and F of paragraph 1 shall be individuals who—

(A) are leaders of business or labor or persons with distinctive qualifications or experience, and

(B) are not officers or employees of the United States.

SEC. . (a) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) The Commission shall elect a Chairman from among the members of the Commission.

(c) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

FUNCTIONS OF THE COMMISSION

SEC. . (a) The Commission shall conduct a comprehensive study and review of—

(a) The elements of Federal policy that have resulted in the national debt and budget deficit.

(b) The Commission shall make specific recommendations regarding:

(1) methods to reduce the deficit, promote economic growth, and encourage savings and capital formation;

(2) a means of ensuring the burden of achieving our deficit reduction goals is equitably distributed and not borne disproportionately by any one economic group, social group, region or state.

(3) the current and prospective economic factors and developments in the United States that should be taken into account in making economic policy and increasing international competitiveness; and

(4) the institutional arrangements required to achieve the appropriate coordination, within the United States, for the making and implementation of economic policy. (c)(1) The Commission shall submit to the President and to the Congress by no later than March 1, 1989, a final report on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action which the Commission considers advisable.

(2) Any recommendation made by the Commission to the President and to the Congress must be adopted by a majority vote of the members of the Commission who are present and voting.

POWERS OF THE COMMISSION

SEC. . (a) The Commission may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission is authorized to request from the heads of executive and legislative departments, agencies, establishments or instrumentalities of the Federal Government such information as the Commission may require for the purpose of this title, and each such department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, and subject to the exceptions set forth in the Freedom of Information Act, 5 USC 522, such information, suggestions, estimates, research, surveys, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall to the extent possible, and subject to his discretion make any of the facilities and services of such department, agency, or instrumentality available to the Commission and to the extent possible and subject to his discretion detail any of the personnel of such department, agency, or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this title, provided that any expenses of the Commission incurred hereunder shall be subject to the limitation on total expenses set forth in section 6(b) of this title.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

The Commission is authorized, to such extent and in such amounts as are provided in appropriation Acts, to enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title, subject, however, to the limitation on total expenses set forth in Section 6(b) of this title.

The Commission shall be considered an "advisory committee" within the meaning of the Federal Advisory Committee Act 5 USC APP. 2, 3(2)

(4) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission subject to the limitation on total expenses set forth in Section 6(b) of this title shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, U.S.C., governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provisions of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairman deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(5) Service of an individual as a member of the Commission, or employment of an individual by the Commission, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relations to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, U.S.C., or comparable provisions of Federal law.

COMPENSATION OF MEMBERS

SEC.—(a) Members of the Commission shall serve without any additional compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available therefore.

(b) The Commission shall have a staff headed by an Executive Director appointed by the Chairman. Any expenses of the Commission shall be paid from such funds as

may be available to the Secretary of the Treasury.

The total expenses of the Commission shall not exceed $1 million. Prior to the termination of the Commission, pursuant to Section 7 of this title, the General Accounting Office shall conduct an audit of the Commission's financial books and records to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

TERMINATION OF COMMISSION

SEC. . The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

Mr. MOYNIHAN. Mr. President, the hour is late and I think it would be right to say that this is an amendment familiar to the Senate. It would create a National Economic Commission. It has been discussed in private conversations and in conference, as you might say, for several months now.

In offering this amendment I would like to thank the distinguished Governor of New York, Mario Cuomo, who has taken the lead in bringing this concept of a bipartisan commission to the forefront of the debate on national economic policy.

Last month, after 4 weeks of difficult negotiations, Members of the House and Senate and the White House reached agreement on a bipartisan 2-year plan to reduce the budget deficit. The plan was not as ambitious as some might have liked. President Reagan summed it up in his Saturday radio address when he said that it was "probably not the very best deal that could have been struck." And that is what made the budget agreement significant. The White House compromised on revenues and defense spending and Congress on domestic spending. The agreement demonstrated that just possibly we can govern.

The budget summit agreement was just the beginning. Even with $30, billion in savings, this year's deficit will be larger than last year's. Next year's probably only slightly lower, Perhaps higher. Years of struggle ahead.

The challenge we now face is to maintain the spirit of bipartisan cooperation that produced that agreement so that we can develop fair and effective long-range policies that will reduce the budget and trade deficits and promote economic growth both here and abroad.

There is no doubt that the long-term economic health of the Nation is at stake. The massive deficits which the Federal Government has incurred year after year have made us increasingly dependent on foreign capital. I remarked some while ago that the 1980's will be remembered as the time we borrowed a trillion dollars from the Japanese and gave a party. That understates. Since 1981 the national debt has gone from about $900 billion to well over $2.5 trillion by the end of 1988. This situation has weakened our Government's hand in negotiations with West Germany and Japan on trade and economic policy, contributed to unacceptably high trade imbalances, and resulted in a massive transfer of wealth from labor to capital. Increased interest payments on the debt have also passed the $200 billion mark, and are largely responsible for our budget deficit. Think about it. Spending and revenues are roughly in balance. Interest on the debt equals the deficit.

A National Economic Commission can help to resolve these problems. Like last month's budget summit, the NEC would be a collaborative effort between the administration and Congress, with private sector participation an added feature. The Commission would build upon the budget summit's achievements, sending an important signal to financial markets that bipartisan cooperation on the economy will continue.

But for the press of time and differences regarding its composition, I believe that the Commission would have been included in the budget agreement. We have continued our discussions with the Speaker and majority leader of the House, our own distinguished majority and minority leaders here in the Senate, the chairmen of the Finance and Budget Committees, the White House and other key participants in the budget summit process. I can now report that this amendment resolves all the objections that were raised during the summit negotiations to the Commission, which now has broad bipartisan support.

This bears repeating. The Commission will be strictly bipartisan—six Republicans and six Democratic appointees. After next year's election, the President-elect will select two additional members to ensure that the next administration has input into the process. The Commission will report its recommendations no later than March 30, 1989. These recommendations will cover the entire range of economic issues, including deficit reduction, economic growth, increased savings and capital formation and the international competitiveness of the U.S. economy.

The Commission will also avoid the politicization of the campaign, yet conclude its business in ample time to give the next administration an opportunity to implement its recommendations, if it so chooses. I think that it is no coincidence that the Senate's three Presidential candidates, Senators DOLE, SIMON, and GORE, are all cosponsors of this amendment. A National Economic Commission can help forge the consensus necessary to achieve a comprehensive solution to our economic problems.

Presidential commissions charged with reporting on various aspects of American life have often proven useful. They first became commonplace under Theodore Roosevelt, who frequently used these commissions to bypass Congress. Roosevelt's first commission was established in 1902 to investigate the anthracite coal strike in Pennsylvania, and by the time he left office in 1902 he had created 11 such commissions.

Of course, a commission is no substitute for sound policy, but if properly structured and conceived, a bipartisan commission can accomplish much.

Take, for example, the 1982-83 Commission on Social Security. Though the problems that faced the Social Security System were far more discrete and manageable than the broader economic problems that will confront the National Economic Commission, the experience is both instructive and encouraging.

As far back as 1946, Secretary of Labor Frances Perkins wrote in "The Roosevelt I Knew" that "in 1980 it would be necessary for the Congress to appropriate money to make up a deficit [in social security]." Shortly after the Reagan administration took office in 1981, OMB Director David Stockman seized upon the system's well-anticipated financial problems and announced that there would soon occur "the most devasting bankruptcy in history." There was no substance to this warning. In reality, at the very worst, checks might have been a day or two late.

The bipartisan Social Security Commission was formed, and I, along with BOB DOLE, JOHN HEINZ, and BILL ARMSTRONG from the Senate, Barber Conable from the House, former Social Security Commissioner Bob Ball, and others began to look closely at the problem. Although it was apparent that certain things needed to be done to put the system in shape, the situation was not nearly as bleak as portrayed.

BOB DOLE, Barber Conable, and I, along with the White House staff, got to work and in a span of just 12 days, from January 4 to January 15, 1983, worked out the historic Social Security amendments which ensured the solvency of the retirement funds far into the next century.

The Social Security Commission succeeded because it was faced with a manageable problem and because a political consensus existed in favor of preserving the system. However, it will not be so simple to place our political economy on a sound footing. The problems are far more complex, and a political consensus has not yet emerged regarding the causes of our economic difficulties, much less the solutions.

Each of these economic challenges—a sluggish national and international economy, the Federal deficit, the

Third World debt crisis, exchange rate misalignment and trade imbalances—is difficult in its own right. Discrete solutions are not available because of the interconnected nature of the problems. Initiatives which address one problem run the risk of exacerbating others, and neither political party can bring off a comprehensive solution without support from all major constituencies.

It is in circumstances such as this that commissions can be particularly useful. They can be used to respond to pressing issues where the status quo is untenable and a blueprint for long-term action is required. In order to accomplish this task, members of the NEC should be broadly representative of the key sectors of our society, be free of ideological rigidity and have the stature to ensure that their autonomy is respected and their recommendations heeded.

The NEC would also help ensure that critical economic issues are not relegated solely to the realm of election year politics and sloganeering that can result in rigid positions that foreclose the realistic responses required when the campaigning ends and govening begins.

The NEC, which would consist of representatives from Congress, business and labor, academia, other distinguished private citizens, and the executive branch, would set out, facts, options and recommendations for addressing national and global concerns as part of an overall hopefully coherent economic strategy. And, most importantly, it would have the credibility and capacity to help build a political consensus necessary to advance this strategy.

Eventually, these problems must be dealt with by our basic national political institutions, Congress and the Presidency. The Commission's role is to supplement—not supplant—our regular political process and to set broad goals and principles, examine problems, and suggest specific policies to achieve these goals. The Commission's findings and recommendations would help continue the effort that developed during the budget summit to address these problems—long-term solutions which enable us to gain control of the deficit, restore our position in trade, promote economic growth, develop equitable arrangements between lenders and Third World debtor nations and place the international economic system on a sound footing.

These solutions require unprecedented decisions regarding the sharing of burdens and the opening of opportunities. But people will be willing to accept the difficult decisions if they appreciate the short and long-term benefits of those solutions. The Commission can help create the national consensus necessary to implement its recommendations. Such a consensus, and a marshalling of political will, is required if we are to achieve solutions to these seemingly baffling economic problems.

Several Senators addressed the Chair.

Mr. MOYNIHAN. Mr. President, I am not aware of a time agreement. I see the distinguished majority leader and the distinguished minority leader are standing.

The PRESIDING OFFICER. Under the previous order, there is 10 minutes per side.

Mr. MOYNIHAN. Mr. President, I yield the remainder of my time to the Republican leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, as many of us have said from the outset, the proposals we have discussed here today are only a first, and admittedly small step, in our efforts to get the deficit under control.

We still have before us a tremendous problem that I believe would benefit from the serious thinking of experts both inside and outside the Government. The Economic Commission that we are proposing to create would provide us that opportunity.

The negotiations which led to the so-called leadership package showed again that there are subjects that are difficult for both sides to contend with, but that are critical if we are to ever achieve long-term reform. And unfortunately, until we are able to face all our problems equally, certain programs will bear the brunt of our short-term solutions.

The Commission, which will at first be composed of an equal number of Democrats and Republicans, will have as its charge the study and review of all the elements of Federal policy that have resulted in the national debt and budget deficit. They will also be asked to make specific recommendations on methods to reduce the deficit and a means of ensuring that the burden of achieving our deficit goals is equitably distributed among all economic groups, regions, and States.

NARROW FOCUS

We have deliberately limited the scope of the Commission's charge, so as to improve its chances of actually producing a useful product in a timely fashion. While I am fully aware of the fact that the problems that face us are multifaceted and involve trade relations with other nations as well as international exchange rate issues and Third World debt responsibilities, there is just so much we can expect to be done in a limited period of time.

TIMING OF REPORT

We have chosen to give the Commission until March of 1989 to report back to us. While wishing that we could see some earlier results of their efforts, we frankly wanted to avoid the potential politicization of the report should it be available prior to the November elections and provide an opportunity for the incoming administration to have input.

CONCLUSION

While not a perfect solution, the creation of the Commission is another step in series of efforts to gain control of our deficit, restore our competitive position and promote stable, long-term economic growth.

I urge my colleagues to vote in favor of the proposal.

Mr. President, I think it is also fair to say that there has been a lot of discussion and a lot of work on trying to put this together. There has been a lot of cooperation on both sides of the aisle.

Initially, an idea was suggested by the distinguished Governor of the State of New York, Mario Cuomo. He had an idea for an economic commission. This has been somewhat restricted. It is not just a budget deficit commission. Many of the things that were suggested have been eliminated not because they did not have merit, but because of the complexity and the time involved.

Now I think we have a good product. It has broad bipartisan support. I commend not only our colleagues but members of our staffs who have been working for the past 3 or 4 weeks in this effort.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHILES. Mr. President, I yield 1 minute to the Senator from New York.

Mr. D'AMATO. Mr. President, as an original cosponsor, let me commend Senator DOLE and Senator MOYNIHAN also for their taking time to express appreciation to Governor Cuomo for his coming to the Congress to express his views and concerns on this commission. This bipartisan commission will lead to long-term solutions to the problems that we face.

Mr. President, I rise today as an original cosponsor of a amendment offered by Senator MOYNIHAN and DOLE establishing a National Economic Commission. The sole purpose of the Commission is to recommend ways to reduce the budget deficit beyond fiscal year 1988.

Recently Governor Cuomo came to Washington for a meeting with Senator DOLE and others to discuss his idea of a bipartisan commission to study the budget deficit, trade imbalance, and Third World Debt issues. For the better part of a year Governor Cuomo has advocated creation of a National Economic Commission as a forum to propose solutions to these problems.

The Governor feels, correctly, that only a package of recommendations supported by a bipartisan consensus will result in long-term solutions.

Without such a consensus, we will continue to address these issues on a piecemeal basis. We will continue to muddle through only reacting to each crisis.

The need to attack our Nation's economic woes has been heightened by the October 19 collapse of the stock market. At a minimum, the market is telling Washington that the key to economic stability is deficit reduction. Not just for fiscal year 1988, but well into the future. We cannot be satisfied with a plan to reduce the deficit for just 1 year.

After meeting with Governor Cuomo, Senator DOLE decided to make formation of a National Economic Commission a top priority. The amendment offered today represents a compromise plan that would have the Commission focus solely on deficit reduction. Its membership would include individuals selected by the executive branch as well as both parties in Congress.

The panel would begin work almost immediately with the goal of finishing work by March 1, 1989. The report could then become the basis of congressional budget deliberations. The 101st Congress would have the opportunity to incorporate the panel's recommendations into the fiscal year 1990 budget.

The National Economic Commission will not replace the efforts made to reduce the fiscal year 1988 budget deficit. But the Commission will provide a blueprint for long-term deficit reduction. This is essential to avoid a recession and perpetuate economic growth.

I urge my colleagues in the Senate to support our amendment to establish a National Economic Commission.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield 1 minute to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my friend for yielding.

I would like to join with my colleagues on the Moynihan amendment.

Mr. President, a few weeks ago I introduced a bill for a 1 year national debt reduction, savings, and economic reform commission and talked about the need for a long-term correction in U.S. fiscal policy—one that encourages savings, economic growth, and national debt-deficit reduction.

And, so naturally I am pleased to be here today to join my fellow colleagues in a similar effort to set up a 1-year, blue ribbon, independent, nonpartisan 14-member national commission to analyze and recommend ways to reduce the deficit and debt, and enhance savings, capital formation, and economic growth.

Mr. President, our country is in an extremely shaky financial condition. It is deep in rising debt, burdened with massive deficits, and faced with disappearing savings for capital growth.

It is reached a point that we have become extremely vulnerable. So much so that recent record U.S. dollar lows and the single-day "crash" of Wall Street stock prices have put our Nation's credit and economic growth at risk.

It is obvious that something far more fundamental than a short-term budget "summit" fix is needed to restore confidence in our fiscal stability.

What is needed is a long-term correction in U.S. fiscal policy—one that encourages savings and debt reduction.

This country's debt is staggering. In the past 6 years public debt has doubled to nearly $2.5 trillion and net corporate debt has increased by more than $5 trillion. Last year nearly one fifth of our revenue, roughly $195,000 billion, went to pay just the interest on our debt while interest payments soaked up one half of corporate America's earnings.

The savings we use for economic growth is disappearing. Consumer savings as a percent of disposable income is roughly one half of what it was 6 years ago. It is at its lowest point in 40 years—nearly $100 billion off normal levels. Our savings is so small we must rely on the savings of other countries to finance our debt. Eleven percent of our present public debt has come from foreign sources—roughly $250 billion—nearly twice the Federal deficit.

Savings for the long-term is critical for a healthy economy. Savings increase the money supply making capital for private and public investment available at affordable low-interest rates. This helps to stimulate growth, create jobs, and generate additional revenues to help pay off our debt, keep taxes low, and stretch out the Federal budget dollar. It makes us less dependent on foreign savings, more competitive with foreign countries, and avoids necessary Federal Reserve Board actions that risk inflation or recession.

But, savings alone is not enough. We must also curb the excessive Government debt that eats into our Nation's limited savings, taking capital away from private investment opportunities for economic growth.

Our current system is off-track. It encourages debt not saving. Interest on debt is deductible while interest on savings is taxed. For example, a person in a 33 percent tax bracket who puts $1,000 in a 6-percent money market fund for one year will have only $990 left of purchasing power after taxes, assuming a 5-percent inflation rate.

Getting a healthy policy mix of savings and debt can go a long way toward stabilizing the dollar, curbing Wall Street excesses, miximizing the Federal budget dollar, making us competitive abroad, and stimulating growth.

The budget "summit" agreement offers no overall plan for fiscal reform. It does avoid arbitrary Gramm-Rudman budget cuts and it contains some symbolic leadership value. But, still leaves us with an uncertain feeling about our fiscal future. By next year we will still have more debt and spending than ever.

Yet, we must not overreact. Fiscal reform is not just finding numbers to balance a budget. It is coming up with the right long-term policies that can lead to a stable, healthy economy.

But it is a sensitive and complex problem. A fast-track blue-ribbon economic commission will help give us thoughtful, straight-forward, balanced, and measured policy options—options that are not unduly influenced by harmful particular political pressures. It will also minimize untimely, excessive, or wrong combinations of tax increases, spending cuts, and Federal reserve actions that could retard growth and cause undue hardship to millions of Americans.

Mr. President, because of this, I ask this body to support this amendment.

The Commission's cost is minimal. Its expenses are limited to no more than $1 million, and will be paid from Secretary of Treasury funds.

Groups that are now working on similar projects could give the Commission a good running start at a credible, expedited report for the next President by March 1, 1989.

A long-term correction in U.S. fiscal policy is long overdue. I ask you to join us in this amendment.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the distinguished majority leader be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further discussion on the amendment? Is all time yielded back? All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 1266) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. I thank the distinguished manager of this legislation, the Senator from Florida, the chairman of the committee, and the distinguished Senator from New Mexico, the ranking member, and especially the majority leader who made it possible at this late hour to bring this matter before the Senate.

EXPORT-IMPORT BANK ASSET SALES

Mr. HEINZ. Mr. President, the leadership package that we are considering in this reconciliation debate represents one more step, albeit a modest one, in coming to grips with the budget deficit

problem. While the package is small in comparison with the fiscal gap we are facing, it must at least be applauded as better than no leadership at all.

There is, however, one element of the package that is worthy of no applause at all, and that is in fact a real losing proposition. I refer to asset sales, the budget gimmick that trades a quick, temporary infusion of funds for larger deficits in the future and permits us to avoid difficult budget choices now. As my colleagues know, I have been increasingly concerned about the management of Federal credit and the issue of asset sales. I am a sponsor and strong supporter of credit reform, which would avoid the entire issue of selling off assets by scoring the cost of credit accurately and up front. However, I do not expect credit reform to be implemented nor asset sales abandoned in our discussion of the leadership package today.

What I would at least like to see is more even-handed treatment of programs forced to undertake asset sales. I am submitting an amendment for printing that I will not propose that would condition any asset sales by the Export-Import Bank on exemption of the Bank from prepayment penalties required by the Federal Financing Bank for early retirement of agency debt. This amendment would not change the deficit or increase spending but would accord Eximbank the same waiver of penalties provided for the Rural Electrification Administration in section 8201 of the leadership package.

My amendment would protect the Bank from $90 million of capital losses arising from prepayment penalties. These losses will further reduce the capital base of the Bank and with it the confidence of investors and exporters at the very time that they are looking to the Bank to meet export financing needs no longer met by commercial banks.

As I have stated, my amendment does not alter the deficit nor does it increase resources for new spending by Exim. Exim lending is controlled by annual appropriations. It is a bookkeeping transfer internal to the Government. FFB is now making money at the expense of Exim's capital base by collecting high interest payments based on interest rates prevailing in the early 1980's while borrowing at lower rates today. My amendment would end this drain by permitting Exim to refinance at par without changing Federal spending of Treasury's borrowing requirements.

I have submitted this amendment with no illusions about the difficulty of altering the leadership package. Everyone is concerned about lowering the deficit and does not want to upset the summit deal. But there is also a trade problem out there—October's trade deficit hit $17.6 billion, up from $14.1 billion in September. I believe it is necessary to at least make the effort to preserve our one source of official export finance at a time when financing is often the key to export deals and banks are getting out of the business.

Eximbank's direct credit program has been reduced by nearly 90 percent in 5 years. It is the whipping boy of the budget process. I ask my colleagues to work with me to preserve this vital institution, if not in amending the budget compromise today, then in future budgets.

I ask unanimous consent that the text of this amendment be printed following my statement in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of section 9007 (adding a new section 16 to the Export-Import Bank Act of 1945), add the following:

"(e) LIMITATION.—Loans may be sold pursuant to this section only to the extent that funds realized from the sale are used to prepay obligations issued by the Export-Import Bank of the United States to the Federal Financing Bank in order to fund the Export-Import Bank's lending program without any charges associated with the prepayment in excess of the outstanding balance on the obligations and the interest due as of the date of the prepayment.".

AMENDMENT NO. 1267

(Purpose: To extend the Arizona Health Care Demonstration Project)

Mr. DECONCINI. Mr. President, I send an amendment to the desk on behalf of myself and Mr. MCCAIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. MCCAIN, proposes an amendment numbered 1267.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . EXTENSION OF ARIZONA HEALTH CARE DEMONSTRATION PROJECT.

(a) RENEWED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, but subject to subsections (b) or (c) of this section, the Secretary of Health and Human Services (in this section referred to as the "Secretary") upon application shall renew until September 30, 1989, approval of demonstration project number 11-P-98239/9-05 ("Arizona Health Care Cost Containment System—AHCCCS—A statewide approach to cost effective health care financing"), including all waivers granted by the Secretary under such section 1115 as of September 30, 1987.

(b) TERMS AND CONDITIONS.—The Secretary's renewed approval of the project under subsection (a) shall—

(1) subject to subsection (c), be on the same terms and conditions that existed between the applicant and the Secretary as of September 30, 1987; and

(2) remain in effect through September 30, 1989, unless the Secretary finds that the applicant no longer complies with such terms and conditions.

(c) PERMITTING ADDITIONAL WAIVERS AND COVERAGE.—Nothing in this section shall be construed to prevent the applicant from seeking approval, in due course, from the Secretary—

(1) for additional waivers under section 1115 of the Social Security Act,

(2) for coverage of additional optional groups, and

(3) for coverage of long-term care and other services which were not covered as of September 30, 1987.

Mr. DECONCINI. Mr. President, our amendment responds to a request from our State legislative leadership for the extension of Arizona's Indigent Health Care Demonstration Program—the Arizona Health Care Cost Containment System [AHCCCS]. AHCCCS has been providing health care services to at least 215,000 Arizonans since 1982. As a prepaid health plan, it has been a joint State-Federal demonstration project under the Medicaid program for the past 5 years.

We are now on the threshold of making the program permanent. However, the current HCFA imposed deadline of January 31, 1988 for completing negotiations on the outstanding issues does not give the State sufficient time to finish the work that has been undertaken by the legislative leadership and the Indian tribes to reach agreement on the final plan. We need to give the State additional time to complete its negotiations. Our amendment accomplishes this by allowing the demonstration program to continue operating until September 30, 1989 under the approved waiver which was in effect on September 30, 1987.

By adopting this amendment, we are saving the Federal Medicaid budget $70 million. Without the amendment, AHCCCS will be phased out of operation by the Health Care Financing Administration and Arizona's only option will be to adopt a traditional fee-for-service Medicaid Program. If this happens, the Federal Government will end up paying $70 million more out of its Medicaid budget. By extending the AHCCCS Program, the most the Federal Government will pay in the current fiscal year for AHCCCS is $110 million, not the $180 million required for a traditional Medicaid program if that were adopted by the State to maintain health services for the indigent in Arizona.

Mr. President, the distinguished chairman of the Finance Committee, Senator BENTSEN, and the ranking minority member, Senator PACKWOOD, understand the urgency of the situation facing Arizona. In fact, they have been very responsive to our need for this amendment and have agreed to

accept the provision. I thank them for their willingness to help us. This Senator is most appreciative of their leadership and the fine work they have done on our behalf. I would urge the support of my colleagues for this amendment so the people of Arizona can continue to get critical health services provided by the Arizona Health Care Cost Containment Program.

Mr. President, I thank the ranking member and the chairman of the Finance Committee, Senator PACKWOOD and Senator BENTSEN, for their cooperation in getting this matter to the floor in a very timely manner, as well as the Senator from New Mexico and the Senator from Florida for their valuable cooperation.

Mr. President, I yield to my colleague.

Mr. McCAIN. Mr. President, I join my distinguished colleague and friend from Arizona, Senator DECONCINI, in offering this amendment to extend the life of the Arizona Health Care Cost Containment System [AHCCCS] through September 1989.

This program operates on a 5-year waiver provided by the Department of Health and Human Services. The program, which provides care on a capitated rather than the traditional fee-for-service basis, has been pointed to on many occasions by the administration as the model for how they would like to see Medicaid operate in the future.

However, Mr. President, we face a problem. The State of Arizona and the Federal Government are still working out the details of the second 5-year waiver. Unfortunately, if the details of the new waiver are not agreed to by January 1988, the program will begin to be dismantled—with a drop dead date of September 1988.

If the program is dismantled, and the State of Arizona has to revert to the traditional fee-for-service Medicaid Program, and the Federal Government would have to shell out an additional $70 million annually—beginning in 1988. According to the Congressional Budget Office, the Federal Government's share of AHCCCS is $110 million, while under the traditional fee-for-service Medicaid Program it would be $180 million.

Senator DECONCINI and I believe that it is important that the time period for dealing with this issue be long enough so that the State of Arizona and the Federal Government can achieve an agreement over the details of the new waiver.

At the present time, the leadership of our State government, members of both parties—both the executive and the legislature—are working vigorously with the Federal Government to reach an agreement. We trust that the additional year extension, provided by this amendment, will provide adequate time during which an agreement can be reached over the details of the new waiver. It is for this reason that we request the support of our colleagues in the consideration of this amendment.

In closing, we would just like to remind our colleagues that if the State of Arizona is forced to revert to the traditional Medicaid Program prior to a resolution of the primacy issue, it is not only the people of Arizona that will suffer but it is the Federal budget as well. After all, according to the Congressional Budget Office, the fee-for-service will cost the Federal Government $70 million more per year than it currently pays for our State's innovative Medicaid Program.

Again, we urge our colleagues to support this amendment.

Mr. President, I thank my colleague from Arizona for his efforts in helping the State of Arizona through a very difficult time. I would also like to extend my appreciation to my colleague from Florida and my colleague from New Mexico for allowing this amendment to be accepted. I believe this is a very important measure. The State of Arizona will have an opportunity to resolve what, for the State of Arizona, has become a very contentious issue.

Mr. DECONCINI. Mr. President, I ask that the RECORD show that the entire Arizona delegation has worked on this matter for many, many hours, the Members of the Senate and Members of the House. I want the RECORD to show that we have labored hard in the State of Arizona on the matter.

The PRESIDING OFFICER. Is there further debate? Is all time yielded back? All time has been yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1267) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BREAUX. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1268

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 1268.

Mr. BREAUX. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title III, add the following new section:

"Sec. . Notwithstanding the limitation provided for in the third sentence of Section 3 of the Tennessee Valley Authority Act of 1933, as amended, the Tennessee Valley Authority is hereafter authorized to spend power revenues to pay salaries that exceed such limitation to not more than 25 key employees, to be designated by the Tennessee Valley Authority Board of Directors on the basis of the need to attract or retain such employees in the management of the Authority's nuclear power operations, provided that the total amount of such salary paid in excess of such limitation shall not exceed $900,000 per year, said amount to be adjusted by the Board annually for inflation in the cost of living from the average for the calendar year 1987."

Mr. BREAUX. Mr. President, I have discussed this amendment with both the chairman of the full committee and the ranking minority member and the managers of the bill who have indicated they have no objection to the amendment.

The amendment merely attempts to, and I think does in fact, correct a problem dealing with the Tennessee Valley Authority's inability to hire top personnel to run their nuclear power facilities. There are approximately 25 employees, and they simply cannot, other than going through the process of contracting out with private industry, obtain these employees because of the low salary level. This amendment corrects that problem by raising the ceiling on what they can pay their employees. In effect, it will bring about a savings because they will be able to effect that savings by paying a higher salary than they can now but certainly substantially less than they have to pay out under the contract provision. I ask support for my amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment? Is all time yielded back? All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1268) was agreed to.

Mr. BREAUX. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

AMENDMENTS NO. 1269-1278

Mr. CHILES. Mr. President, I send a number of approved amendments to the desk and ask unanimous consent that the approved amendments be immediately considered en bloc, they be considered as having been read and passed and a motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection to the request of the

Senator from Florida? Hearing none, that will be the order.

The amendments are as follows:

AMENDMENT No. 1269

Purpose: To strike the provision restricting OMB authority to apportion funds for peer review under the medicare program.

Strike subsection (k) of section 4041 of the amendment.

AMENDMENT No. 1270

Purpose: To deny a pay raise to Members of Congress, senior Executive Branch employees, and Federal judges.

Strike subsection (b) of section 5001 and insert in lieu thereof the following:

"(b) CERTAIN PAY ADJUSTMENTS NOT APPLICABLE TO MEMBERS OF CONGRESS, AND OTHER SENIOR EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCH OFFICERS.—

(1) For any pay period occurring in the fiscal year ending September 30, 1988, no adjustment in rates of pay made pursuant to section 5305 of title 5, United States Code, or the provisions of subsection (a) of this section, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for the office or position as of September 30, 1987 if, as of such date, such rate (or maximum rate) is—

(A) fixed at a rate which is equal to or greater than the rate of basic pay for Level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(B) limited to a maximum rate which is equal to or greater than the rate of basic pay for level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(2) No rate of pay for any office or position shall be increased after September 30, 1988, based on any increase by an adjustment that would have been received but for the provisions of paragraph (1), unless such increase is provided pursuant to a law enacted after the date of enactment of this Act.

AMENDMENT No. 1271

Section 1891 of the Social Security Act, as added by the amendment made by section 4021(i)(1)(A) of the amendment, is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "(1)",

(B) by striking "The" and inserting in lieu thereof "Subject to subparagraph (B), the", and

(C) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section. "; and

(2) in paragraphs (1) and (2) of subsection (b), by striking "338D" each place it appears in such paragraphs and inserting in lieu thereof "338E".

Section 1915(c) of the Social Security Act, as added by the amendment made by section 4021(i)(2)(B) of the amendment, is amended by striking "338D" and inserting in lieu thereof "338E".

Section 4021(i)(3) of the amendment is amended—

(1) by striking "(3)(A)" and inserting in lieu thereof "(3)",

(2) by striking "338D(b)(1)" and inserting in lieu thereof "338E(b)(1)", and

(3) by striking subparagraphs (B) and (C) and inserting in lieu thereof the following new subparagraph:

(B) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

AMENDMENT No. 1272

Purpose: Strike section 9010.

On page 714, line 7, strike "section" and insert "title".

AMENDMENT No. 1273

In section 4033 of the amended bill, strike subsection (c) and insert in lieu thereof the following:

(c) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) shall apply with respect to services furnished on or after January 1, 1988.

(2) The amendment made by subsection (b) shall become effective on January 1, 1990.

Section 4052(c)(1) of the amended bill is amended by striking "has not attained the age of 6 (or any age designated by the State that exceeds 6 but does not exceed 8)" and inserting in lieu thereof "is age 6 or under (or is any age designated by the State that exceeds 6 but does not exceed 8)".

Section 1915(d)(5)(B) of the Social Security Act, as added by section 4101(a)(1)(B) of the amended bill, is amended in clauses (i) and (ii) by striking "7 percent" each place it appears in such clauses and inserting in lieu thereof "7 percent times the number of years beginning after the base year and ending before the waiver year involved".

AMENDMENT No. 1274

At the appropriate place, add the following new section:

SEC. . WHEAT ACREAGE DIVERSION.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 is amended—

(1) in clause (i) by striking out "and (IV)" and inserting in lieu thereof "(IV), and (V)"; and

(2) in clause (ii)—

(A) by striking out "and (IV)" in subclause I and inserting in lieu thereof "(IV), and (V)"; and

(B) by adding at the end thereof the following new subclause:

"(V) Effective for the 1988 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the producers on the farm are prevented from planting such acreage, if intended for wheat, to wheat for harvest in 1988 because of a drought in 1987 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster.".

AMENDMENT No. 1275

Strike section 4086 of the bill and insert in lieu thereof the following:

SEC. 4086. WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.

Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "Temporary" in the heading; and

(2) by striking "for hospice care provided before October 1, 1988,".

AMENDMENT No. 1276

At the appropriate place insert the following new section:

"SEC. . DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

"(a) IN GENERAL.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) NATURE OF PROJECT.—In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the

amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May, 1987.

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the program, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of the Food Stamp Act of 1977 (7 U.S.C 2020(e)) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, if the application review process is concerned, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals which may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State and subsequent changes in benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) The Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project; and

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) FUNDING.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, which was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) PROJECT APPLICATION.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant, such application shall—

"(A) also be treated as an applicant to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project; may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) WAIVER.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) which (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) CONSTRUCTION.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) PROJECT AUDITS.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) EVALUATION.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

AMENDMENT NO. 1277

The bill is amended as follows:

(1) On page 43, line 3, the phrase "a period set by the Secretary not to exceed" is deleted;

(2) On page 43, lines 24 through 25, the phrase "the Secretary under" is deleted.

SECTION 1. CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES.

(a) MEDICARE CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or

a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician," and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) MEDICAID CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting in lieu thereof "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting in lieu thereof "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician,"; and

(2) in subparagraph (B) by striking "a physician;" and inserting in lieu thereof "a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician with a physician;".

(c) SUPERVISION OF HEALTH CARE FURNISHED IN SKILLED NURSING FACILITIES.—Section 1861(j)(4) of such Act (42 U.S.C. 1395x(j)(4)) is amended—

(1) in subparagraph (A) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,".

(d) DEFINITION.—

(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new paragraph:

"Nurse Practitioner and Clinical Nurse Specialist

"(ff)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) is master's prepared in nursing; or

"(ii) holds a masters degree in a related field and is certified or certified eligible by a national professional organization; or

"(iii) has completed a nurse practitioner continuing education program and is certified or certified eligible.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term 'nurse practitioner' " and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner".

(e) EFFECTIVE DATE.—

(1) The amendments made by subsections (a), (c), and (d) of this section shall apply to items and services furnished on or after the date of enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance provided on or after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 2. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) PAYMENT OF BENEFITS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(1) in subparagraph (B) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)",

(2) in subparagraph (C) by striking "and",

(3) in subparagraph (D) by inserting "and" after "tests;", and

(4) by adding at the end thereof the following new subparagraph:

"(E) with respect to items and services described in section 1861(s)(2)(L), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10).".

(b) CONTRACTS WITH CARRIERS.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(13) In providing payment for the items and services described in section 1861(s)(2)(L), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality.".

(c) DEFINITION.—Section 1861(s)(2) of such Act (52 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by adding "and" at the end of subparagraph (K), and

(3) by adding at the end thereof the following new subparagraph:

"(L) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) CONFORMING CHANGE.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection (s)(2)(L)" before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 3. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in paragraph (5)—

(1) by inserting "(A)" after the paragraph designation; and

(2) by striking "elsewhere;" and inserting in lieu thereof "elsewhere; and (B) services furnished in an intermediate care facility or skilled nursing facility by a nurse practitioner or clinical nurse specialist (as defined in section 1861(ff)(1)) working in collaboration with a physician;".

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance provided on or after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 4. The Secretary shall issue such rules and regulations which will ensure that this provision is implemented in a budget neutral manner. The Secretary is authorized to reduce the levels of payments that would otherwise be paid to ensure budget neutral implementation.

AMENDMENT NO. 1269

Mr. MITCHELL. Mr. President, I rise in support of Senator HEINZ' motion to strike from the leadership package a provision offered in committee which would prohibit the Executive Office of Management and Budget [OMB] from limiting the amount of Medicare funding available to the Secretary of Health and Human Services for the Medicare Peer Review Organization.

Earlier this year I introduced legislation, which was supported by my colleague from Pennsylvania, which is intended to reform and improve the PRO Program. One of the most serious problems with the program involves the amount of funding available to carry out the activities mandated by law.

While my legislation addresses the question of funding, it does not man-

date a specific funding level for the program. In the past it has been difficult to get an adequate level of funding from OMB in spite of support for increases from Congress and the Health Care Financing Administration.

Senator HEINZ' amendment, included in the leadership package, would have limited OMB's control over the funding levels for the PRO Program. I am pleased that since the committee's inclusion of this amendment, Senator HEINZ and others have reached a tentative agreement with OMB on a 2-year funding level that would fund an expanded scope of work, including review in nursing homes and home health facilities.

OMB's agreement to fund PRO activities at $625 million for the upcoming 2-year cycle is a significant step toward adequate funding for this important program which monitors the quality of care delivered to the Nation's Medicare beneficiaries.

I am optimistic that this agreement will resolve one of the most serious concerns expressed about the PRO Program—a lack of adequate funding. I commend Senator HEINZ for his efforts in reaching this important agreement.

Mr. HEINZ. Mr. President, the amendment I am offering will strike from the leadership package a provision I offered in committee to prohibit the Executive Office of Management and Budget [OMB] from limiting the amount of Medicare funds the Secretary of HHS can use to carry out the activities of Peer Review Organizations [PRO's].

Mr. President, this provision was passed by the committee because of a growing frustration with OMB's constraints on PRO funding. Congress has created and expanded the PRO system in an effort to ensure that the quality of health care for Medicare beneficiaries is high and is not impaired by efforts to control Medicare costs. We learned a tough lesson about the effect of cost containment on health care quality when we implemented the hospital DRG system with its incentives to release patients "sicker and quicker" from our hospitals. Our response was to mandate a more strict review by PRO's of the quality of care hospitals provide. While PRO's have done their best, they have been "hamstrung" in their reviews because of limited funds and limited access to post-hospital care settings. If we do make sure that PRO's are adequately funded now, I fear we will see more and more serious quality problems as we tackle the next target for health care cost containment, rising part B physician costs.

The committee took this meat-ax approach to limiting OMB's control over PRO funds to give us some time to work with OMB on an adequate funding level. I'm pleased to report that we have reached a tentative agreement with OMB on a 2-year funding level that would fund a reasonable scope of work for PRO's and that is acceptable to Senators BENTSEN, MITCHELL, and myself. I have a letter today from OMB confirming this agreement and ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, December 10, 1987.

Hon. LLOYD BENTSEN,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Administration has previously indicated, we have serious objections to Section 4041(k), "Restriction on OMB authority to apportion Peer Review funding", of the Senate Finance Committee December 3, 1987 package for inclusion in the Leadership Deficit Reduction Amendment. However, I also indicated in my earlier letter to you that we looked forward to working with your staff to resolve appropriately the concerns of the Committee.

My understanding is that our staffs have clarified—and, I hope, resolved—the concerns. The concerns discussed included the overall level of Peer Review Organization (PRO) funding, the general priority accorded various PRO tasks, and related financial management issues.

The Administration intends to issue by January 1, 1988, a scope of work for the third round of PRO contracts. For budgeting and planning purposes, we are assuming that $625 million will be available for obligation for the third round of biennial PRO contracts. This funding level is projected to be consistent with the expected requirements of the scope of work.

In light of the staff discussions and this letter, I trust that you will move to have Section 4041(k) deleted from the Senate Finance Committee provisions included in the Leadership Amendment. Once that has been accomplished, the Administration would be able to fully support the package of Medicare, Medicaid, and Income Security provisions adopted by the Finance Committee to implement the Budget Summit Agreement.

Sincerely yours,

JAMES C. MILLER III,
Director.

Mr. HEINZ. Mr. President, we anticipate that OMB will agree to apportion $625 million for an approved scope of work for the PRO program prior to completion of conference.

In brief, OMB has agreed to fund the next, 2 year cycle of PRO activities at a level of $625 million. And to extend the PRO scope of work to include PRO review of nursing home, home health, and physician care, as required by COBRA. OMB has also agreed to work closely with the Secretary of DHHS and with Finance members in determining how the $625 million will be apportioned.

Mr. President, the agreement we have reached with OMB is fair, cost-conscious, and goes a long way to ensure that our "quality watch" under Medicare does not stop at the hospital door, but extends as well to nursing homes, physician offices, and the beneficiary's home. This agreement is also an important and constructive step by OMB, DHHS, the Congress, and the PRO industry toward a common workplan and a common goal. I believe we have made progress in moving the Congress' quality objectives for Medicare with this agreement. I move to strike my provision.

AMENDMENT NO. 1273

Mr. BENTSEN. Mr. President, the first correction will clarify that the rebasing of the lab fee schedules becomes effective for services furnished on and after January 1, 1988, and the 1990 effective date applies only to the intermediate sanctions provision.

The second technical correction is to clarify that coverage of the DEFRA children—those who meet the AFDC income and resource requirements but do not receive AFDC—would be expanded by 2 years—through age 6 rather than up to the 6th birthday.

The third technical correction modifies the formula for the home and community-based waivers to clarify that the growth factor of no more than 7 percent is applied on a per year basis.

The fourth technical amendment clarifies that section 4056—optional Medicaid coverage of individuals in certain States receiving only optional State supplementary payments—applies only in situations in which the State's income disregard rules are more restrictive than SSI rules. This conforms the language to the intent to cover States such as Oklahoma that have an income disregard for their State supplementary payments that is more restrictive than SSI, and conform to the original CBO and OMB estimates that the provision was budget neutral or saved money. Without the correction, CBO now estimates a cost of $10 million in fiscal year 1988.

The fifth technical amendment clarifies that the delay in collecting quality control penalties is not a forgiveness of penalties, but rather a prohibition on the Secretary collecting the penalties prior to July 1, 1988.

AMENDMENT NO. 1274

Mr. HATFIELD. Mr. President, the amendment I am offering today provides relief to the wheat farmers in the Pacific Northwest who were prevented earlier this year from planting their 1988 crop due to extreme drought conditions. Most of the wheat grown in the Northwest is soft white winter wheat and farmers historically have planted their crop in the fall. If the crop is not planted then, much smaller yields result since planting is delayed until spring.

In Oregon perhaps 20 to 30 percent of wheat farmers were not able to

plant because the usual fall rains did not materialize. The Columbia River Basin is prime wheat country in Oregon and Washington but these areas were listed in the "extreme" category when measured by the Palmer Drought Index. Pendleton, OR, usually receives an inch of rain in October; this year it got a trace. The 3 month total ending October 31 was .08 inches. The weather news from Walla Walla, WA, was just as bad—no rain fell in October and only .21 fell during the same 3 months.

My proposal provides winter wheat farmers, who have not planted a 1988 crop due to drought conditions, the option of not planting in the spring and receiving 92 percent of their normal deficiency payments. Without the so-called 0/92 option, many farmers will plant a spring wheat crop, and no matter how small the crop, the farmers will receive the full 100 percent of their deficiency payments. According to CBO, this amendment is at least savings neutral.

I assure my colleagues that this amendment is drawn very narrowly and is not an endorsement of a comprehensive 0/92 option.

There is precedent for using 0/92 as a disaster relief measure. Earlier this year we enacted legislation—Public Law 100-45—allowing farmers in the Midwest, who were unable to plant their 1987 crop due to flooding, to use the 0/92 option. Mr. President, we have a pending disaster of the opposite nature now in the Pacific Northwest.

It is my understanding that members of the Agriculture Committee have no objection to this amendment and I urge my colleagues to adopt this proposal.

AMENDMENT NO. 1275

Mr. DODD. Mr. President, today I am urging my colleagues to join me in sponsoring an amendment to this reconciliation package, to modify a waiver for the Connecticut hospice.

This reconciliation package contains only a 2-year extension of the waiver on in-patient/home-care ratios for Connecticut hospice. But we have been enacting temporary waivers for the Connecticut hospice, the oldest and first teaching hospice in the country, since 1982. Without a permanent waiver, it will not be able to continue providing quality care to thousands of Connecticut residents and their families. Lack of a permanent waiver is also hampering plans to move forward in meeting the health emergency posed by the AIDS epidemic.

Because Connecticut hospice was designed to serve the entire State and continues to provide in-patient care statewide, it can never meet the 20- to 80-percent ratio established by the hospice legislation. The Connecticut hospice does meet a 20-to-80 ratio for the entire State but not for its direct home-care delivery service area.

This is a no cost provision. Connecticut hospice consistently comes in under the cap of $7,391 per patient. The cost per case at Connecticut hospice totals only $5,350 per patient.

When the original temporary waiver was enacted, my colleagues agreed that the oldest hospice and the first teaching hospice in the country should not be put out of business. Given the long and strong tradition of quality care at Connecticut hospice, I urge my colleagues to support this amendment to assure that this hospice will be able to continue serving the residents of my State.

AMENDMENT NO. 1276

Mr. EVANS. Mr. President, I rise to offer an amendment which would enable the State of Washington to move ahead with its carefully-designed Family Independence Program [FIP]. The operation of the FIP demonstration project requires Federal waivers in AFDC, Medicaid, and Food Stamps. Although it would have been more desirable to have moved free-standing waiver legislation, the time constraints under which we are working have obviated that possibility.

Last April, the Washington State Legislature enacted the Family Independence Program [FIP]. Implementation of this project is scheduled to begin in March 1988. However, the State statute requires that the Governor submit a report on the action taken by Congress to approve FIP. The State legislature must then reapprove FIP prior to the March 1 start date. Failure of Congress to act by the end of 1987 will delay program implementation for as long as an additional year since the State legislature will adjourn in early March.

The Senate Finance Committee, after reviewing the FIP proposal, included the necessary AFDC and Medicaid waivers of its reconciliation mark. Thus, the project needs only the food stamp waiver before it can be implemented. Our amendment would provide for such a food stamp waiver. This language has been cleared with the chairman of the Agriculture Committee as well as the distinguished ranking member. Similar legislation already has been approved by the House Agriculture Committee. FIP is budget neutral at the State level. CBO has concluded that the effects of the waiver legislation would be budget neutral at the Federal level as well.

FIP is a 5-year demonstration project as an alternative to the current AFDC program. It is a work-training intensive project aimed at enhancing the job skills of welfare recipients. It is a proposal that has been carefully constructed and has received overwhelming bipartisan support from our State legislature as well as national and State welfare rights organizations. I urge the amendments immediate adoption.

AMENDMENT NO. 1276

Mr. ADAMS. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Washington State, Mr. EVANS and myself. It is my understanding that this amendment is not controversial, and has been cleared with both sides.

This amendment allows Washington State to use its Federal Food Stamps allocation for the purpose of operating a demonstration program, the Family Independence Plan, for 5 years as an alternative to the current AFDC Program. Provisions permitting similar use of the State's AFDC and Medicaid funds are already part of the overall reconciliation bill currently before the Senate. Inclusion of this provision simply makes the package complete.

The Family Independence Plan is designed to address many of the concerns that have been raised about the existing AFDC program. This plan provides a multiservice assistance package, including job placement and training, child care, and guaranteed child care and Medicaid for a year after permanent placement. It is budget neutral at the State level, and I assure my colleagues that the Congressional Budget Office has determined that the amendment we offer today is budget-neutral at the Federal level as well.

Authorization of the Washington State plan as a demonstration program will be an important step toward national welfare reform. This plan has received bipartisan support, both within my State and nationwide. It guarantees that participants will not be worse off than they were before, and protects their traditional entitlement rights. It also provides for a renewed focus on the development of work skills as the most dependable way for individuals to permanently escape the trap of dependency.

I am proud of the contribution that my State, behind the leadership of it's distinguished Governor, the Honorable Booth Gardner, is making to the cause of welfare reform; and I urge my colleagues to support this effort by accepting this amendment.

AMENDMENT NO. 1277

Mr. MELCHER. Mr. President this amendment to the federal oil and gas leasing provisions in the bill provides for a fixed 3-year recycle period on the over-the-counter leases. It is an amendment supported by the independent oil and gas producers.

The 3-year recycle period provides stability in their operations and will help them to assure the best opportunity for exploration and development on Federal leases.

The country needs more oil and gas development. The independent opera-

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tors are the fore-front of renewed exploration.

AMENDMENT NO. 1278

Mr. INOUYE. Mr. President, the amendment which I am proposing today incorporates the provisions of S. 101, the Advanced Nursing Services in Nursing Homes Act, and is cosponsored by Senators BURDICK, SIMON, and BINGAMAN.

Under the current Medicaid law, nurse practitioners are authorized to perform recertification of medical necessity in skilled nursing facilities and in intermediate care facilities, as long as they are supervised by physicians. Our amendment would expand these services by allowing nurse practitioners and clinical nurse specialists to certify and recertify the need for continuing care in both institutions under the programs of Medicare and Medicaid. Further, we have modified the physician supervision requirement to only require collaboration.

An additional aspect of this amendment would provide for the reimbursement of nursing visits in the same manner as physician visits are reimbursed, that is, when required on a periodic basis by the statute. The Congressional Budget Office [CBO] has indicated that this amendment has no dollar cost and we are confident that it will provide quality health care in a cost-effective manner.

Mr. President, the purpose of our amendment is to bring the most current state of the art nursing care to our Nation's senior citizens. Without question, our population is rapidly aging and unfortunately, there is a severe shortage in all health disciplines of individuals who are specially trained in geriatric care.

As drafted, our amendment will specifically pay nurse practitioners and clinical nurse specialists 75 percent of their prevailing charge, a rate I might point out that is 5 percent less than what physicians receive. Further, we have required that nurses who receive payment for services cannot charge the beneficiaries an additional amount, that is, there a mandatory Medicare provision assignment.

Finally, to ensure that there will not be an economic conflict of interest, we have modified our original legislation to insure that those professional nurses who are performing the certification and recertification services may not be employees of the institution. I might point out that such a requirement of an arm's-length relationship between the practitioner and the facility is not required under the current law for physicians who are providing these same services.

Mr. DOMENICI. Mr. President, I thank my good friend, the chairman of the Budget Committee, for his time and effort and patience on this bill and the majority and minority staff of the Budget Committee and of those committees that performed work to put this package together.

Mr. President, I would like to take a minute to thank the staff who have worked so very hard on this effort. I would like to thank not only the minority staff of the Budget Committee, but the very able staff of the other committees, which contributed to the leadership amendment: the staffs of the Finance Committee, the Agriculture Committee, the Governmental Affairs Committee and the Labor and Human Resources Committee. It is too easy to forget that it is these many talented, hardworking staff members who work long hours under very difficult circumstances to help us do our work. This is particularly true of our own minority leader's staff. I just want to express my own gratitude here, now, and I am sure the gratitude of the many members of the budget summit process.

I see the majority leader sitting here and while there has been a lot of complaining about the economic summit, I think maybe we witnessed a little bit of history tonight because I do not think in 15 years—and I would bet that if we checked the record for all the Senate's history—an informal agreement between a President and six Senators without any power, no reconciliation instructions, nothing to hold over them, but the committees of the Senate went to work and in substance, if not in absolute spirit, complied with the summit conference passed in one day in the Senate. I think it bodes well for the Congress if we can now get it out of conference.

I think it really says there was a difference between meeting with the President and the House, Democrats and Republicans, and passing something and waiting around for a sequester. I think it is a genuine effort in a crisis. I personally was not sure that we could accomplish it. There are many who think we could have accomplished more, but just think, the Finance Committee did its job with nothing but the word of these summiteers saying you ought to do it. Government Operations did theirs. Agriculture did theirs. And surely every "t" is not crossed and when we go to conference we will have a chance to correct a few things, but I think it is a marvelous example of what can happen when the President and Democratic leaders and Republican leaders sit down together.

I want to thank the majority and minority leaders for the tremendous help they have been to us and obviously it goes without saying to my friend Senator CHILES.

Mr. President, even though we voice vote this, there are five or six Senators who wanted the RECORD to reflect that they would have voted "no" on final passage if permitted, and I ask unanimous consent to insert their names in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD as follows:

Had there been a vote on this bill, the following Senators would have voted no: Senators GARN, WALLOP, MCCLURE, MCCAIN, SYMMS, EVANS, BOND, and KASTEN.

Mr. CHILES. Mr. President, I thank my good friend and colleague and the fine Senator from New Mexico for his kind remarks. It is interesting that we in effect passed the leadership amendment on a voice vote. We worried as to whether there would be the 60 votes to waive under any consideration. We have been able to get that and then to have passed this. I agree that it does show you can come to some agreement, and even though many of us wanted more, all of us did, than we had here, we did finally, after the end of 4 weeks, put something together that avoided the sequester. A missing ingredient for long a time has been participation of the President, and finally when we had the participation of the President, we were able to get passage.

I personally do not think there is any way you ever can do something meaningful regardless of whatever process you have without the active involvement and leadership of the President and the spirit and will of the Congress through its leadership working to do that. I think this was an example of that.

Mr. President, I thank the majority leader because he supported us all through this process at the summit, as did the minority leader. But I remember on many occasions he said, "Whatever you all agree to, I will help you pass." He certainly held to that all the way through. He did not try to be an active participant. He sent us there, but backed us up all the way, and I thank him so much for that. Through the joint leadership support we had we were able to put this package together.

I say again to my friend from New Mexico, it was very nice to be working together. I missed that during a long period of time this year. It shows the kind of results that happen when we participate together.

Mr. BYRD. Mr. President, the action that has been taken here today is the culmination of a great deal of labor and painstaking effort on the part of those Senators and House Members and representatives of the President who sat for days on end and worked to surmount extremely difficult obstacles. We have witnessed an extraordinary event. It demonstrates that the basic fabric of our system is an enduring fabric. It demonstrates the integrity of this body when we see the leadership package withstand every amendment, every motion, every attack and

then resolved by a voice vote. And to add to that then the final passage of the reconciliation measure itself is an event sui generis.

I find myself pitifully incapable of expressing my gratitude to the distinguished Republican leader and distinguished chairman and ranking member of the Budget Committee and also to the chairman of the Finance Committee.

And I want to thank the ranking member of the Finance Committee, although he did not accompany us all the way in this journey. I also thank Senators STENNIS, JOHNSTON, and HATFIELD. But I saw a truly admirable demonstration on the part of these Senators who sat for days, who did their very best in extremely difficult and complicated situations. And so let me just say thank you to them.

I would add one final note in support of something that has been said here about the working together of the President and the Congress. The journey has not been completed, but what we have seen here should indicate to the country that in this system of ours a Republican President and a Democratic Congress can come together. When they do put their heads together, they move mountains.

As I said earlier today, there are those who think that the package was not all that one would wish for, and I am sure that each of us would agree to that. But we have shown that we can work together, and that this system will work.

I think that coming on the heels of a visit here by the leader of the other superpower, and in the context of all the great outpouring of courtesy and a considerable amount of admiration, this is something that says to me that this superpower here, this system that we have is superior to any other system which was ever conceived by the mind of man. Here there is no dictatorship nor proletariat, and there is no dictator of the dictatorship of the proletariat. I read just 2 weeks ago "The Life and Death of Lenin" by Robert Payne. I would recommend the reading of that book to every American. It is a rather sobering thing just to be reminded of the other system that is the chief adversary of our own. It is quite easy to be swept away in moments like the days that we have just experienced, but it is refereshing to go back and to be reminded of things that we long since have forgotten ourselves.

In reading that book about the life and death of Lenin, I came to have a better insight into the Soviet bureaucracy, and of Soviet communism itself. I did not become an expert, but it helped me in these past few days to remain pretty sober as a lot of events were swirling around us.

I need only close by saying that Lenin in that book is quoted as saying "We shall destroy everything, and on its ruins we shall build our temple."

And I was also reminded of Khrushchev's statement which I had long since forgotten, but I think it is good that we keep it in sight in our mind's eye. And now I shall recall it. "Do not believe we have forgotten Marx, Engels, and Lenin. They will not be forgotten until shrimp learn to sing."

I thank my friends. As long as we have men of the caliber of these Senators who have worked so long and so hard to achieve what has been done here today. I shall have no doubt that the Senate will continue to prove it has the integrity to deal with the most serious problems. And then in the final analysis, whether Republicans or Democrats, we are going to do what we think is best for this sytem of ours and this country of ours.

The PRESIDING OFFICER. Is there further debate on the measure?

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Has all time been yielded back?

Mr. DOMENICI. I yield any time remaining on our side.

Mr. CHILES. Mr. President, just briefly I wanted to mention all of the dedication of the staff again for my part on both sides, and the work they did during the summit as well as all of the work during this. The hours they put in are always so much longer than any of us put in, and the debt of gratitude to them is always so, very, very much due for their attention and the work in that.

Mr. President, I yield back the remainder of my time.

PROCEDURES FOR GOING TO CONFERENCE WITH THE HOUSE

Mr. CHILES. Mr. President, I ask unanimous consent that H.R. 3545 be deemed as having been considered and amended by striking all after the enacting clause and inserting in lieu thereof the language of S. 1920, as amended, and be considered as having been read for the third time and passed, and the motion to reconsider laid on the table, that the Senate insist upon its amendment and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. CHILES. I thank the Chair.

The PRESIDING OFFICER. Is there further business to be brought before the Senate?

S. 1920 RETURNED TO THE CALENDAR

Mr. CHILES. Mr. President, I ask unanimous consent that S. 1920 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

DECEMBER 10, 1816: SENATE CREATES STANDING COMMITTEES

Mr. DOLE. Mr. President, today is the 171st anniversary of the creation of standing committees in the U.S. Senate. It was on December 10, 1816, that the Senate established 11 standing committees: Foreign Relations, Judiciary, Ways and Means—which later became the Finance and Appropriations Committees—Commerce, Military Affairs, Naval Affairs, the Militia, Public Lands, Claims, Post Office, and Pensions.

Prior to 1816, the Senate had done its work through a series of temporary committees, appointed to handle specific bills, treaties, or nominations. In any session of Congress, several hundred of these ad hoc committees would be created and disbanded as they performed their assignments. Obviously there could be no seniority system as we know it, although some Senators were repeatedly reappointed to certain types of committees according to their areas of expertise. Inequalities also prevailed, for a few Senators drew a great number of committee apppointments while other Senators served on none.

The Senate did have three standing committees for housekeeping functions: for enrolled bills, engrossed bills, and contingent expenses. But in the aftermath of the War of 1812, with major social, economic, and diplomatic issues facing the United States, the Senate realized the need to create permanent committees that would provide continuity and stability for the legislative process.

In December 1816, the Senate received President James Madison's annual State of the Union Message. Virginia Senator James Barbour proposed that instead of creating a host of special committees to address each provision of the message, standing committees be appointed. On December 10 the Senate adopted Barbour's proposal, and within the week the first permanent committee appointments were made, establishing a committee system that continues today.

AIRPORT SECURITY SYSTEMS

Mr. HEFLIN. Mr. President, for a couple of years now, we have known how ineffective our existing airport system is. Many of us have been calling for serious efforts to improve that system, with better detection equip-

ment and with better training and better paid employees to operate that equipment. Instead, we have been faced with nonsensical calls for bans on nonexistent firearms.

The possibility that an air tragedy in California was actually a mass murder carried out because of our shoddy security system in scathing criticism of how we and the FAA have fiddled while disaster was smoldering ready to blaze. This tragedy did not occur because someone was able to smuggle a small lightweight steel gun aboard and not because someone invented a plastic undetectable gun aboard. It was accomplished because existing means for detecting existing firearms were not used effectively. The perpetrator reportedly smuggled a .44 Magnum on board. Are we now to believe that a firearm weighing nearly 3 pounds is not readily detectable?

Pending legislation in this Chamber would, according to the experts, make our security even weaker by creating a false sense of security. Its main sponsor has even said he is more concerned wtih banning some guns than with improving airport security. I disagree and would call upon this body promptly to sponsor legislative and administrative efforts to improve our airport security system and not to divert attention from this threat to our lives with legislation aimed at problems which do not exist.

A TRIBUTE TO THE HUNTSMAN FAMILY OF SALT LAKE CITY

Mr. GARN. Mr. President, this week, in Salt Lake City, a drama—and a near-tragedy took place involving one of my closest friends, one of Utah's most generous and respected families, and courageous and conscientious agents of the FBI and the Salt Lake City Police Department.

On Tuesday of this week, two 17-year-old high school students kidnaped James Huntsman, a 16-year-old son of Jon and Karen Huntsman, of Salt Lake City. The kidnapers subsequently demanded $1 million for the release of the boy, but Federal agents were able to trace the location of the callers and succeeded in rescuing James Huntsman and capturing the suspected kidnapers.

Sadly, the successful rescue was not without its price. Special FBI Agent Grant Alan Jacobsen, a 20-year FBI veteran just 2 weeks from retirement, was stabbed in the chest and very nearly lost his life in the struggle to separate young James Huntsman from one of his captors.

Mr. President, I applaud the dedication and bravery of the FBI agents who skillfully effected James' rescue. I especially wish to pay tribute today, in this Chamber, to the courage of a member of the FBI who chose to place the safety of others ahead of his own. The tragedy is that his heroism and selfishness very nearly cost him his life. It is my fervent hope that Special Agent Jacobsen, who is today in serious but stable condition, will be able to completely recover from the grave wound he received in this incident.

There is another aspect of this incident that I wish to bring to the attention of my colleagues. That is the response of the Huntsman family to this terrible experience. There is no question in my mind that James Huntsman was targeted as a kidnaping victim because of the well-known wealth and civic activity and generosity of his family, who have made several large monetary donations to various institutions in Utah. One might expect that being subjected to the horror of a child's kidnaping, and experiencing the mixed feeling of relief at his rescue and concern and sadness at its cost, would drive the family into seclusion and would be ample reason for them to withdraw from the sort of civic involvement that made them visible and vulnerable. Yet, after James' rescue on Wednesday, Jon and Karen Huntsman called a news conference, praising and thanking the Federal and local authorities for saving their son's life. At the same time, Jon indicated that this incident would not cause him or his family to shrink from what they consider to be their civic duty, and will continue to participate in and support the worthwhile activities in the community and State in which they live and for which they have a great sense of gratitude.

Mr. President, as unfortunate and near-tragic as this incident has been, it has served to demonstrate some of the highest and most noble virtues to which we should all aspire. The skill, bravery, and dedication of Special Agent Jacobsen and his colleagues, and the great personal stamina and sense of community responsibility of the Huntsman family, far outweigh the savage, terrible, misguided act of two young men who chose to commit a vicious crime.

SENATOR EDWARD M. KENNEDY'S 25 YEAR RECORD

Mr. BRADLEY. Mr. President, few of us can look back on our tenure in the U.S. Senate and point to the many accomplishments of our colleague, the senior Senator from Massachusetts, Senator KENNEDY.

I was very pleased to note that Harvard University's Kennedy School of Government recently took the time to look back on Senator KENNEDY's remarkable 25-year record of service to the people of Massachusetts and to the entire country. I would like to share their assessment with my colleagues as an inspiration for us all. I ask unanimous consent that the transcript of the proceedings be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRIBUTE TO SENATOR EDWARD M. KENNEDY AND HIS 25 YEARS OF SERVICE IN THE U.S. SENATE BY THE INSTITUTE OF POLITICS AND THE JOHN F. KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY, NOVEMBER 30, 1987

Speakers:

Honorable Richard L. Thornburgh, former Governor of the Commonwealth of Pennsylvania; Director of the Institute of Politics at the John F. Kennedy School of Government, Harvard University.

Graham T. Allison, Dean of the John F. Kennedy School of Government, Harvard University.

Ronald H. Brown, Partner, Patton, Boggs & Blow, Washington, D.C.; Chairman of the Senior Advisory Committee of the Institute of Politics.

Claire Fleming, Chairman, Student Advisory Committee of the Institute of Politics; Harvard University Class of 1988.

Paul Holtzman, Law Clerk to the Honorable Pierre N. Leval, United States District Court, New York City; former Chairman of the Student Advisory Committee of the Institute of Politics; Harvard University Class of 1982.

The Honorable Jonathan Moore, United States Coordinator for Refugee Affairs and Ambassador-at-Large, Department of State; former Director, Institute of Politics.

Richard E. Neustadt, Douglas Dillon Professor of Government, Harvard University; former Director of the Institute of Politics.

Derek Bok, President, Harvard University.

Senator Edward M. Kennedy.

REMARKS OF RICHARD L. THORNBURGH

Good evening to you all. I'm Dick Thornburgh, the Director of the Institute of Politics, and I'm very pleased to welcome all of you this evening to a tribute to Senator Edward M. Kennedy for twenty-five years in public service. It will not surprise you to learn that between a former Republican Governor of Pennsylvania and the senior Democratic Senator from Massachusetts, there are certain differences on the issues of the day. But I must say that there are certain views that Ted Kennedy and I hold that are very much in coincidence. First of all, we share a zest and an enthusiasm for the process of elective politics. Secondly, we recognize the need to transmit that zest and enthusiasm to the next generation of leaders, many of whom will come from this Harvard community. And thirdly, we recognize the importance and usefulness of the Institute of Politics in bridging that gap between the academic community and the real world—the so-called real world—of politics and government. So for me it's a particular pleasure to act as the master of ceremonies and traffic cop this evening as we join in paying tribute to Ted Kennedy for twenty-five years of exemplary service as Senator from this State and as a national and world leader. I'm going to call upon, this evening, a group of associates and friends of Ted Kennedy to reflect on his career and to offer their tributes in their own words as a lead-in to the featured address of the evening, which will be delivered by Senator Kennedy.

First of all, I'd like to call upon the Dean of the John F. Kennedy School of Government, Dean Graham Allison.

REMARKS OF GRAHAM T. ALLISON

I'm greatly honored to salute Senator Edward M. Kennedy for a quarter century of distinguished public service in the Senate of the United States. Others on the program will offer more perspective on his achievements in that body. I'll speak to what I know best—his contributions here at the Kennedy School, not only as the State's senior Senator, but as a steady, active partner in building a living memorial to the ideals of public service exemplified by his brother, John Kennedy, and indeed by the remarkable family of Kennedys. For twenty-one of the past twenty-five years he has been unfailingly generous with his time and enthusiasm for the Institute of Politics, as a member of the School's Visiting Committee, and as a wise counsel. He has been the single most important advocate for creating an institution at Harvard that would inspire young men and women to elective politics. Today, elective politics seems or appears to many to be more closely related to acting or prime-time TV than to the teaching and research purposes of a great university. Indeed, many faculty members, even at Harvard, find it easier to scoff at the folly of knaves and fools than to take up the challenge of improving the quality of our public leadership. Whatever our local tendencies to backslide and whenever we are discouraged by our own failings, Teddy has been there, never wavering in his conviction that electoral politics is the noblest calling of public service, or in his insistence that through the Institute of Politics this be a vital center of the school that bears his brother's good name.

As the fourth son in a family that in some wonderfully mysterious way bred public service into the children's bones, he and his siblings have been acutely aware of the price. The eldest brother died in World War II, the second was assassinated as President, a third was killed as he pursued his party's nomination for the Presidency. Weaker hearts counseled retreat—especially in the face of countless threats to Senator Kennedy's own life—but not Edward Kennedy. Without missing a step, he assumed the family's mantle of leadership in public service, steadfastly refusing to compromise his commitment to his values, even when they have been lightning rods for right-wing extremists. Through all his personal adversity, he's held fast to certain guiding stars. As he said on one occasion, "The pursuit of the presidency is not my life. Public service is." Or on another occasion that revealed even more of his heart, he said he would like to be considered, "A Senator for the average working family—the ones that don't have powerful voices or interests in the Congress of the United States."

The record of his legislative achievements over the past quarter century is extraordinary. Not just as champion of equal rights or access to health care or more recently the Literacy Corps, but also in areas like airline and trucking deregulation, the modernization of the federal criminal law, or even budget cutting. Last May 29th, as we celebrated what would have been John F. Kennedy's seventieth birthday and dedicated the new JFK Park, Senator Kennedy said, "Jack has finally come back to Harvard." We at the Kennedy School feel that he's never left. Indeed we see him and his ideals exemplified in the man we honor this evening, Senator Edward M. Kennedy.

REMARKS OF RICHARD L. THORNBURGH

Thank you Graham, very much. The Institute of Politics is served by a Senior Advisory Committee which is made up of leaders from public and private life who serve as counselors to those of us who have the responsibility of overseeing the Institute's day-to-day activities. I am pleased to introduce the Chairman of the Senior Advisory Committee, and a distinguished lawyer and politician in his own right, Ron Brown.

REMARKS OF RONALD H. BROWN

Thank you very much, Dick. We are, of course, here this evening to praise Senator Kennedy—give him well-deserved praise—for his twenty-five years of brilliant public service. In recounting those years, certain pictures and images flash through our minds—images which all of us have when we think of those twenty-five years. Images of Ted Kennedy fighting on the floor of the Senate for fairness and justice and equity. Images of Ted Kennedy maintaining an impossible public schedule with grace and dignity. Images of Ted Kennedy fighting to protect the interests of the people of Massachusetts. Images of Ted Kennedy electrifying the 1980 Democratic National Convention with his "The Dream Shall Never Die" speech. Images of Ted Kennedy, the leader, driving himself and his staff to do better. Images of Ted Kennedy taking on the tough and often unpopular issues—in effect, sailing against the wind.

But I hope that's not the only image or those are not the only images we see as we reflect on those twenty-five years. I hope we also see Ted Kennedy earnestly talking to students and young people, genuinely seeking their views and ideas. I hope we also see Ted Kennedy holding and feeding starving children in East Africa. I hope we also see Ted Kennedy playing tennis with the intensity of a middle linebacker, but yet able to laugh when he makes errors, laugh at himself—he makes enough errors so that he's able to laugh a lot on the tennis court. I hope we see Ted Kennedy visiting a former staff member who is on his deathbed dying of cancer. I hope we see Ted Kennedy kissing his son Teddy. This is the true measure of the man. Ted Kennedy has more character and compassion and concern and caring for people than any man I know. I'd like to salute him on his twenty-five years of public service. But more important, I'd like to salute him for being one heck of a human being.

REMARKS OF RICHARD L. THORNBURGH

Thank you, Ron. If there's one thing that Senator Kennedy has urged on the Institute of Politics throughout his years of affiliation with this organization, it is attention to students, and the nurturing of student interests in the political world. Our Institute is served by an outstanding group of students who constitute the Student Advisory Committee. And with us this evening to join in this tribute is Claire Fleming, this year's Chairman of the Student Advisory Committee.

REMARKS OF CLAIRE FLEMING

While growing up in the Midwest, I often saw your picture on the front page of a local newspaper or on the evening television news. I never thought that I would have the opportunity to meet you or even let alone work with you. But over the past three and a half years of my experience here at the Institute, I have indeed had that privilege. It is your dedication to the Institute of Politics which I would like to speak to this evening. I remember that as a freshman it amazed me that a Senator, particularly one as busy as Senator Kennedy, could be so dedicated to a student organization like the Institute of Politics Student Advisory Committee. Those of us who have been involved with the Student Advisory Committee have often enjoyed the helpful suggestions which the Senator offers at Senior Advisory Group meetings. He is truly dedicated to the purpose of the student program and he takes his advisory role to the SAC very seriously. We all appreciate the attention and respect that he has given us. He has always offered helpful advice to student programs as well as insightful suggestions for future directions for these programs. He too, has always been there to lend support and encouragement to students.

But Senator Kennedy's dedication has not only been expressed through words. He has most certainly been dedicated in action as well. His commitment to students and student programs is clearly expressed and can be seen, whether it is taking time to talk with students over a cup of coffee about the outcome of the 1986 elections, or agreeing to an interview with the Harvard Political Review. There's also the time that he flew halfway across the country, despite being ill, to make an appearance at a high school leadership conference that the Student Advisory Committee was sponsoring. These are only a few examples of the commitment that I have seen by Senator Kennedy over my past three and a half years here at the Institute. But it is this kind of dedication that students have enjoyed since the founding of the Institute over twenty years ago. Recently, I was asked to write a fellowship essay explaining how I had learned and grown here at Harvard. I cited working with Senator Kennedy as a major educational and broadening opportunity that I had experienced here. Senator Kennedy, working with you has indeed been an unforgettable experience. It has been both a privilege and an honor. For your time spent with students, your guidance and your overall dedication to the Institute of Politics, I thank you.

REMARKS OF RICHARD L. THORNBURGH

To demonstrate that the Senator's interest in the students is not just a sometime matter, but indeed stretches back over the years, and to provide us with a further perspective, I am pleased to introduce Paul Holtzman, who was Chairman of the Student Advisory Committee at the Institute of Politics in the Class of 1982.

REMARKS OF PAUL HOLTZMAN

As Claire Fleming and Ron Brown know, the annual visit of the Senior Advisory Committee to the Institute is always a hectic and exciting time. Participants in each of the Institute's programs are anxious to speak of the year's accomplishments and hear the suggestions and ideas of the distinguished members of that Committee. During my time in the Institute, it was always a challenge to the diplomatic skills of even so even-handed a moderator as Jonathan Moore to keep the agenda moving and time evenly allocated. Despite Ambassador Moore's best efforts, however, the schedule always seemed to go awry around mid-day at the time of the presentation of the Student Advisory Committee. For it seemed that each time that Jonathan tried to move on to the next scheduled presentation, a firm glance from over a pair of half-glasses would signal that Senator Kennedy had yet another question to ask. Looking up from the charts and graphs of our annual report, the Senator would probe the reason for a 3.1 percent increase or decrease in student study group attendance, or ask which

visiting fellows were being considered for the fall. It wasn't that Senator Kennedy wasn't interested in faculty research projects, or the model for yet another new wing of this building; it was simply that he had another question to ask about the student program—usually a question for a student who had not yet had a chance to speak. The Senator's flurry of questions each year reflected a long-standing and energetic commitment to the Institute's student programs. For a full generation of undergraduates passing through the IOP, Senator Kennedy's interest in this program has been a resource of immeasurable value.

At the dedication of this school in 1978, Senator Kennedy called the Institute a magnet between the University and elective office. It is a magnet whose force has touched many students over the years. In no small part, it's been the Senator's personal commitment to, and love for, this Institution that has kept that magnet at full strength over the years. Radcliffe and Harvard students who have listened in the Forum, debated in study groups or with fellows over dinner in the houses, have all been the beneficiaries of the energy so consistently given the Institute by Senator Kennedy. The 400 students from 65 New England colleges who attended our 1982 training conference here, entitled "Education for Action in a Nuclear World," were also beneficiaries, because that program to teach skills of political organizing and grassroots lobbying grew out of a suggestion from Senator Kennedy in a discussion at one of those extended meetings of the Senior Advisory Committee. As with the Nuclear Conference, as Associates and Members of the Student Advisory Committee, hundreds of undergraduates have had the additional privilege, as Claire mentioned, of working in common cause with the Senator to maintain the vitality and creativity that is the heart of the IOP.

In another sense, the Senator has himself been a magnet. For his example of a life devoted to the service of the public has itself sparked in so many students an interest in public life. From the Class of 1982 of the Student Advisory Committee, I'm glad to report that the idea of public service still glows in, among others, the founder of the country's first PAC supporting candidates committed to freedom in South Africa; the founder of a tenants' rights group for the elderly of South Brooklyn; a candidate for the Boston school committee; several Hill staffers; and more than a few campaign junkies and law students with a pronounced bent toward public interest law of one stripe or another.

While it's true that the law schools and business schools have had their share of IOP alums, I fervently believe that our exposure to the public service example of Senator Kennedy and others has contributed mightily to the ability of most to fend off the well-funded entreaties of corporate law and Wall Street banks. In looking to horizons broader than mergers and buy-outs, Institute alumni draw on both specific policy interest developed here and a pervasive spirit of public service and interest in the electoral process acquired through long days of planning on the Institute's second floor, and cheeseburgers with staff members and fellows at Charlie's Kitchen. To have benefitted from Senator Kennedy's vision and commitment to this Institute is a privilege for which we will always be grateful. And it is a privilege which we can repay best by following the Senator's example in giving something of ourselves in the pursuit of the public good.

REMARKS OF RICHARD L. THORNBURGH

Thank you Paul. It's now my particular pleasure to welcome back to the Institute of Politics and the John F. Kennedy School of Government to give us additional perspective over the years, my distinguished predecessor, Jonathan Moore, now Ambassador for Refugee Affairs in the United States Department of State and a world traveler in the interest of human rights around the world. Jonathan, welcome home.

REMARKS OF JONATHAN MOORE

Thank you, Governor. Several years ago in this same hall, the Institute was sponsoring its presidential candidate series, and it fell upon me to introduce Senator Kennedy, then a candidate for the Democratic nomination. Mindful of the need for a measure of neutrality, I tried to conceal the lack of hard support in my remarks with increased rehetoric and decibels. No such luck. He immediately rejoined, "Well, that was almost an endorsement." This time, Senator, since as we know, I suffer under no similar constraints of bipartisanship, you get the full treatment, and I have the unelapsed time that was not used by the people who have preceded me here with their brief remarks.

During Senator Kennedy's twenty-five years of service in the U.S. Senate, he served this University, including this School, and most especially it's Institute of Politics. Two of the programs at the Institute, which he supported with greatest personal delight, were the students and the fellows—the students, because they represented the future energy and devotion in public service; the fellows because they represented political refugees, if not persecuted, at least abused and exhausted, in need of nourishment and care.

It is the Senator's commitment to refugees in a more literal sense that I want to celebrate tonight, which you may not hear as much about as you hear about other things. The first time we met, after he became Senator, was in 1966 and I was up on the Hill to brief him for the State Department for a trip he was taking to investigate the plight of civilian casualties and refugees in Southeast Asia. He had joined the Refugee Subcommittee of the Senate Judiciary Committee immediately following his election, became its Chairman in 1965, and has remained its leader of ranking members ever since. He worked hard on the Immigration Reform Act of 1965, chairing hearings and floor managing his first major legislation. He struggled with the miseries of Biafra, Bangladesh and the Sahel, working for the Indochina refugees and the continuing outflows from Vietnam, Laos and Cambodia, and held hearings on the Cuban-Haitian crisis. He was the prime Senate sponsor of the Refugee Reform Act of 1980. He led the cries for the call for help in the Ethiopia exodus in 1984-85, and a year ago pressed our attention to the worsening situation in Mozambique. Each year, he has asserted a leading role in the consultation process, which sets the worldwide ceilings for admission of refugees to the United States. He made his Subcommittee the watchdog of humanitarian affairs of the U.S. Senate.

It is typical of Senator Kennedy's personification of the principle that human caring must translate into effective public policy brought about by resourceful and dogged political effort, that once he had become a champion of the refugees, he stuck to it, despite the demands and distractions of more prominent causes. And the refugees—the wounded, starving, vulnerable, heroic refugees across the globe—and those others of us who work for them, continue to benefit immensely from his compassionate and tenacious leadership. In simple, unadorned language, Senator Kennedy opened hearings earlier this year on the refugee crisis in Southern Africa: "I have continued to follow closely the issues of immigration and refugees, both overall questions involving immigration to the United States, the way refugees are treated abroad, the reunification of families, asylum, and all those people who look to our country as a source of hope and inspiration. We will try and focus on some of the very important human needs that exist in other parts of the world and how we as a country and as a society are dealing with those issues. They offer, I think, enormous opportunities for leadership." Keep on focusing, Senator. We want a lot more from you.

REMARKS OF RICHARD L. THORNBURGH

Thank you, Mr. Ambassador. Richard Neustadt was the first Director of the Institute of Politics. He is recognized today as the remaining authority on the subject of the presidency. But perhaps most importantly, he brought a warm glow to this Institution and his colleagues in this chill of the fall with word of his impending nuptials. His marriage is upcoming to Shirley Williams, a member of the Senior Advisory Committee of the Institute of Politics, and that my friends is pure subversion. But he joins us this evening to present his tribute to Senator Kennedy—Dick.

REMARKS OF RICHARD E. NEUSTADT

I think it's fair to say, Ted, that I'm trying to bore from within, to get more influence on that Senior Advisory Committee.

I believe that I'm invited here in my capacity as the first Director of the Institute. There isn't much that I can say that hasn't already been said—by the Dean, by the students, and by Jonothan. I have another capacity. I'll come to that in a minute. In the first capacity, let me only say that when the Institute was starting, and the school in its new character was very new and there wasn't much of a school, and there was only the beginnings of an Institute, Bob Kennedy and his brother Ted, who took over the responsibility for helping us on behalf of the interested and concerned family after Bob died, were marvelously supportive. And by supportive I don't mean that they were acquiescent. They sometimes agreed with what we were doing. They often disagreed. They stated their agreements. They let us know. When we decided otherwise, they accepted with good grace. It's remarkable. But they did not stop making clear their views of what we might have done, should have done, and could have done. And indeed, I can think of one or two subjects in which the Senator is still of the view that we went astray in some respects, or could have done more in other respects. And I have to say here, to end this particular topic, the older I get the more I think you may have had a point. Which is to show it's fortunate that I'm the professor and he's the Senator.

But I have a second capacity in which I can claim some expertise on Ted Kennedy and I want just a word for this. I am one of the dwindling band of surviving members of Harry Truman's White House staff. And one of the chief legislative efforts of Truman's seven years was to give reality to the third dimension of what originally was un-

derstood by the term Social Security—namely, health insurance. In 1934, President Roosevelt's Committee on Economic Security had recommended a three-part insurance scheme for Americans. Old age insurance, unemployment compensation, and comprehensive health insurance—a minimal support for people who were sick. And President Roosevelt, a foxy gentleman, decided that he didn't want to risk the opposition of the AMA to old age insurance and unemployment compensation, so he held off on health insurance. In 1937 he wrote a note, which I discovered subsequently in the files, to his then Budget Director, saying—this was two years after the Wagner Act of '35 that created old age insurance and unemployment compensation—"Dan, I want to get on with health insurance, but let's wait 'til after the next Congressional election." The '38 Congressional election ended all possibilities for a generation. It created a conservative coalition that dominated Congress on welfare schemes into LBJ's time.

Truman picked up the gage in 1945 and for years, with the help of Senator Wagner and Senator Murray of Montana, fought to get comprehensive health insurance enacted. We came close to success once, but the Korean War intervened. And the other thing that intervened was the American Medical Association's moves into politics frontally, with financial support for candidates who would oppose what they call socialized medicine. And that so scared the political community that nothing could be done again, until Johnson's time. And even Johnson—even Lyndon Johnson—decided he had to be content with the entering wedge of Medicare. But it was not possible to go farther. And then along comes Ted. And now ever since then, he has been refusing to accept anything short of the underlying principle that was first enunciated in this country by the President's Committee on Economic Security in 1934, and was first enunciated by a President in 1945, and was fought for by two extraordinary Senators—Murry and Wagner, especially Bob Wagner, one of the great men in social reform in our modern history in the United States Senate. And I think one ought to understand that Ted in his twenty-five years has managed to give himself a claim on being Bob Wagner's successor.

REMARKS OF RICHARD L. THORNBURGH

Thank you, Dick. To introduce our featured honoree and speaker of the evening, I have the great privilege of welcoming to you and presenting to you the President of Harvard University, Derek Bok.

REMARKS OF DEREK BOK

Thank you very much. It's a great privilege to be able to be here and participate in this celebration of twenty-five years of public service. I remember that it was the first year of my Presidency, that's very long ago—too long ago—but it was on a fall day in which I was invited to have lunch with Senator Kennedy and with Jackie Kennedy in her New York apartment and talk about the Institute of Politics—literally only two or three months after I had taken office. I was beset with problems so numerous and intense that I could scarcely imagine how to scope with them, and now I was to hear about one more. I remember it was a lovely day, with a beautiful view of Central Park, and I remember, before lunch during the warm-up period, discussing with Senator Kennedy the problem of Vietnamese refugees—in 1971— and their needs. And I remember reflecting what an interesting issue that was, because for me, who knew almost no one in public life, it would be very interesting to see how much a very busy Senator of the United States really knew about that problem with which he had been prominently identified, but which clearly carried no great political mileage whatsoever in furthering whatever ambitions in public life he might have. And I remember how impressed I was in the course of our conversataion at the detailed knowledge that he had of the nature of the problem—the costs of prosthetic devices, of all kinds of details that bore upon what the United States could do to alleviate the unspeakable misery of those whose lives had been disrupted and whose bodies had been maimed by a conflict in which they had no responsibility whatsoever. That was a very impressive exchange for me that helped reinforce, I think, my most optimistic sentiments about public servants and the ideals that can animate them at their best.

Thereafter we had lunch and the talk turned to the Institute of Politics and we had what the State Department likes to describe as a full and frank exchange. That was a period in which the Kennedy School and the Institute of Politics and Harvard in general were trying to make do in this new enterprise of preparation for public service with greatly inadequate resources. And I'm sure, in trying to do everything at once, we were doing nothing particularly well. But we certainly heard, both from Senator Kennedy and from Jackie Kennedy, their ideal of what an Institute of Politics might accomplish, and their concerns about whether we were headed in the right direction.

And since that time, I like to feel that the Senator in his way, and I in mine—and a great many other people—have really labored to try to make the Institute of Politics something much closer to the ideal which he articulated that day and which animated his brother—the ideal of really building a sturdy bridge, an attractive bridge between the academy and the world of political life and elected office. And although he must speak for himself, I'd like to believe that both he and I think that a great deal of progress has been made in pursuit of that ideal in the intervening years. A great deal of credit for that progress goes to the distinguished directors of the Institute who are here tonight.

But apart from those who labor full-time on the work of the Institute, no one deserves more credit than the senior Senator from Massachusetts. In all ways that have been described here tonight, his constant effort to come here and to take an interest in the Institute, particularly in the work that the students do, has really been—as you have heard tonight—an inspiration to us all. And to me as a President of this Institution, I can only say that what he has done really exemplifies the role of Harvard alumni at their best—very critical, but critical because they care, and they care as all of us should care about participating in the endlessly unfulfilled task of trying to make this Institution realize something close to its potential in the service of humane causes. And in helping us come closer to a very important cause we owe him a great debt of gratitude. So it's my distinct pleasure to present to you tonight Harvard's most impressive living embodiment of that dedication—a lifelong dedication—to public service that represents in the last analysis the ideal of the Institute of Politics, and the ideal of this School that bears the name of the Kennedy family. Thank you very much.

REMARKS OF SENATOR EDWARD M. KENNEDY

Thank you very much, President Derek Bok. Just before we came down to this assembly, we met with some of those who have spoken this evening, and those who have had a long-time association with the Kennedy School of Government and the Institute of Politics. I mentioned there—just very informally—and I welcome the opportunity to repeat it to a broader audience this evening, that President Kennedy was proud of his association with Harvard and proud of the role that Harvard played during his New Frontier. I know that I speak for all the members of the Kennedy family in saying how proud he would have been if he were here today to pay tribute to this School of Government that bears his name and to the Institute of Politics which plays such an important and lively role in inspiring a new generation to enter public service.

So many of those who have spoken this evening have made this possible—from President Bok, who reviewed with us those early meetings, which were meetings of love between the members of our family and a leader of a great university in our country and the world, who was willing to speak with us and to work closely with us—to Dick Neustadt, one of the early designers; Ken Galbraith, who advised the members of the family as we were establishing the Institute; Jonathan Moore, one of our ablest directors, now succeeded by Governor Thornburgh, who I know is being challenged by this opportunity and is giving great time and direction to the students; Ron Brown, who is our Chairman of the Senior Advisory Committee; Claire Fleming and Paul Holtzman, who spoke so well and reminded us of those past meetings; and Graham Allison, the Dean, for his continued good work. To all of them, I am indeed indebted. They talk about twenty-five years. That's a long time to be in the United States Senate—at least that's what my Republican colleagues keep telling me. I just wish that my mother and father could be here now. The old saying is very apt—my mother would enjoy every minute of it and my father wouldn't have believed a word of it.

Seriously, I am grateful for this honor—and happy to be back at Harvard and at this School. John Kennedy, who has been described by William Manchester as probably the best read President of the 20th Century, also had perhaps the strongest conception of any modern President about the connection between public life and intellectual life. In a commencement address here more than thirty years ago, he spoke of the university as an active force, and assailed the notion that it could be wholly detached or largely indifferent.

To him, this did not mean that the university should be a compliant servant to government—a mere supplier of research, a mental factory to restock the arsenals of authority. Instead he valued the tension between what he called "power" and "poetry"—and viewed the tension as a source of both creativity and correction.

Today this school not only bears John Kennedy's name, but carries forward his conviction that the power of ideas can enrich, refine, and rein in the ideas of power. He would have appreciated the fact that the school now encompasses as well the study of the press and its impact on politics and public policy. For he saw newspapers and television increasingly becoming mechanisms for hurrying history—means to sit in

instant judgment on events only hours old. Not only in editorials, but in virtually every story; even more now than in the 1960s—the press is becoming explicitly judgmental—and therefore, more directly influential.

Tonight, for a few minutes, I would like to reflect on all this in the context of the present national campaign. Few subjects in public life need more serious reflection, and have received less of it. Few enterprises evoke more predictable patterns of press behavior and comment. And no element of our politics is more important: a presidential election is more than a game, a melodrama, or a mini-series. Whether we are conscious of it or not, we are in the midst of deciding how the most powerful nation on earth will conduct itself for at least the next four years. And the choices made during that period will have consequences for decades or generations to come.

In the remarks that follow, I do not intend to be comprehensive—I leave that for scholarly minds and hands at places like this, where the post-election studies will be written, footnoted, and debated in far greater depth. Nor do I pretend to be entirely objective—no one who has been a presidential candidate ever could be. But my experience in national campaigns, winning and losing, from 1960 to 1980, has left me with a very real sense of a widening gap between the real issues and the reporting; a feeling that the voters are not seeing candidates whole or clearly, but through a journalistic lens increasingly honed to the prism of "People Magazine" and "Entertainment Tonight.".

The problem is not entirely the fault of the press. The candidates themselves may rightly deserve some share of the blame. But they are out there, in the vortex of onrushing events, captive to the imperative of minting a 30-second sound bite, gaining a headline, winning the battle of quotable quotes. Frequently events matter less than what is now widely referred to as spin control—who in which campaign can explain why something doesn't mean what it seems.

I think I speak for many Americans when I suggest that there are some things very wrong with this process. Let me discuss three concerns—and how they are affecting the Democratic primary campaign.

First, our attention appears to be riveted on politics at the expense of issues.

To some extent that has always been the case. But this year, probably because two candidates were driven from the race early, we have experienced a primary election level of coverage long before there were any caucuses or primaries to cover. This could be useful if it was used to tell us, in specific issue terms, what candidates actually think.

Instead staff shake-ups, major and minor alike, command more space than a major speech. Stories of palace intrigue inside campaigns, involving names most of the public never heard of, and squabbles none of the public care about, fill columns of newsprint with material that really isn't news.

Nothing more clearly manifests the distorted political bent of the coverage than the obsession with polls. Everybody takes them; everybody trumpets them; and everybody treats them as the near equivalent of an election. Candidates move up and down, gain or lose attention and money, are perceived to be stalled or surging—and nobody bothers to ask how accurate such pre-caucus and pre-primary surveys are likely to be, or have been in the past.

They did not predict the rise of Jimmy Carter in 1976—or the decline of Walter Mondale in 1984. In 1979, the November polls said there was no way I could lose Iowa—and in 1980, the March polls said there was no way I could win New York.

The polls did not pick up the McGovern movement early in 1972 or the McCarthy breakthrough of 1968. Yet now polls have become the quintessential pseudo-events of the pre-primary campaign. They may tell us something, but they don't tell us everything. Perhaps we cling to them because they offer us numbers—and the numbers confer a certain appearance of reality. It is the statistical analogue of false consciousness; it is false objectivity. Or perhaps the seductive pull of the numbers reflects a resistance to the harder work of dealing with issues on their own terms. If the focus was not on who's ahead in surveys, endorsements, money and Iowa trips, attention would have to be paid to what the candidates are saying—not about each other—not about the process—but about principles, problems, and possible solutions.

Instead serious candidates can be all but read out of the race before a single election is run.

Bruce Babbitt has a thoughtful and courageous approach to questions like Third World debt, but voters hardly know it at all. There is little room for that in newspaper coverage which often seems designed primarily as a campaign manager's newsletter. So Governor Babbitt is probably best known in Iowa for riding a bicycle across the state. He realized the relative press value of discussing the danger of a banking collapse versus pedalling his ten-speed into Des Moines—and you can't blame him for acting accordingly.

In a similar vein, the Reverend Jesse Jackson has advanced alternative policies in areas ranging from relations to Cuba to the agricultural economy. You don't have to agree with him to recognize the seriousness of his views. But most voters haven't read a word about most of the Jackson platform. The reports they see essentially rehash the same old stories—what percentage of the black vote he will hold, who will be hurt by his candidacy, and how he will act at the convention—speculation on which I suspect he himself has spent very little time.

The campaign has become a grinding cattle show, in which all the incentives are to play for short-term advantage. They way to win debates is to plan out the best one-liner—to search for your own version of "There you go again" or "I paid for that microphone"—which itself was originally borrowed from a Spencer Tracy movie. Thus Al Gore, who has something important to say about national security, could hardly be heard on the subject until he finally met the demand for political shorthand—for terms like "liberal litmus test," and "soft"—or "hard"—"on defense."

Let me note, by the way, that all of us who have run in recent years have experienced similar demands—and sometimes succumbed to them. We have supplied the cameras with a steady diet of "visuals," contrived appearances where we may meet no voters at all, but where we can find a backdrop—a real life movie set—so that in the scramble for air time, an anonymous producer won't dismiss an important statement as "boring—it's just a talking head." And every candidate has paid the price of pungent prose when that seemed to be the only way to get the cameras turning.

Good visuals and good lines have their rightful place. But they are not the center of a campaign or of government, despite Mr. Deaver's once relentless attempt to turn the Reagan Administration into a series of visuals and slogans—in effect a permanent campaign.

And what is happening in this campaign represents a further Reorganization of the public dialogue—which leads me to my second concern: what issues coverage there is now comes largely in the form of labels—and if the candidates won't supply them, then the press corps will. It is easier to deal in caricature than complexity—and while there are journalistic exceptions, too many reporters have taken the easy way out.

For example, while I do not fully agree with Dick Gephardt on the issue, his trade bill is not an across the board, Smoot-Hawley tariff increase. To dismiss it as "protectionist" is to miss the reality: it is in fact a complex proposal, involving a series of steps, which conceivably could result in lowering trade barriers. The bill deserves to be debated in detail, not on the basis of stereotypes. And it ought at least to be read by those who are writing about it.

In the same spirit, those who are writing about Mike Dukakis ought to listen to what he has actually said. In terms of the Massachusetts miracle, he never has claimed he did it all. But he does have a clear claim to leadership, to seeing what government could do, and getting it done. Because of him, this Commonwealth was prepared to take maximum advantage of national economic change. It is simply not relevant to object that national trends played a vital part, or that others have helped shape the miracle—the Governor knows that and has never suggested otherwise. His role in the Massachusetts miracle is not an all or nothing proposition; but it was and is a central role, in which he has pioneered new ideas and incentives for economic development. Where is the detailed coverage of that—of initiatives like the Office of State Planning, or the revitalization of Taunton and Lowell?

As the campaign wears on, sifting the political news on page after page, relegating issues to an occasional obligatory story, another phenomenon—which is my third concern—comes to pervade the process. Candidates are raised up—only to be torn down—and to justify that, the whole field is falsely characterized as unimpressive and insubstantial.

It is now happening to Paul Simon. I know him well—and he is a man of principle—and not simply because he refuses to give up his bow tie—which the press then took to as a prize visual. Now that his season has seemingly dawned, we have seen a rush of stories revealing in reproachful terms that he doesn't have a plan to pay for every proposal he has ever made. That is hardly news about him—or virtually any presidential candidate in this field or in my memory. When was the last time a platform was enacted whole into law?

Proposals give a sense of a candidate's priorities—of values and hopes. They point a direction, but they cannot predict an entire presidency. To profess surprise that not every dime or dollar is accounted for in advance echoes the comment of the police inspector in "Casablanca": "Rick, I'm shocked, shocked to find out that gambling is going on in here." That kind of shock is no substitute for a genuine examination of issues—but at least on the Democratic side, it is virtually the only kind of examination we have had.

And as each candidate's season passes, much of the press, in self-fulfilling disappointment, renews the suggestion that they

are all dwarfs anyway. If there is a pack journalism this year, that is its common chord.

I happen to think that Governor Dukakis is the best candidate—and I am working to elect him. But in my view, he is the best of a very good set of candidates.

The complaint that there were giants in other days, running in other campaigns—a complaint amplified by the question: "Where are they now?"—represents an even deeper disregard for history than the obsession with pre-primary polls.

Often the giants, too, were at first dismissed as dwarfs in their own time.

Lincoln was derided as a party hack, with no executive experience. And the assault came not only from enemies, but from those who should have been friends. Wendell Phillips assailed him as "a huckster"—and William Lloyd Garrison called him a "coward" who would block emancipation.

Franklin Roosevelt was dismissed by Walter Lippmann as an "amiable man" of no consequence. The New Republic weighed in that he was "not a man of great intellectual force or supreme moral stamina"—which sounds like some of what the New Republic writes about candidates today.

Listen to some of the other things that were said of FDR—and you will hear the cliches of 1987. Here are sentences from the Nation magazine:

"His candidacy arouses no real enthusiasm . . . [There is] no evidence whatever that people are turning to Roosevelt . . . There is small hope for better things in his candidacy."

Come forward a generation, to 1960, and Walter Lippmann does it again. He urges that John Kennedy step aside, so Adlai Stevenson can be drafted. And later in the year, Arthur Schlesinger has to write a book to refute another journalist's view, widely repeated, that there is no difference between Kennedy and Nixon.

Obviously, in 1987, there are many who have forgotten history—for they surely are repeating it. But now the message of mediocrity is applied to a field of candidates, is woven like a thread through most of the coverage, and magnified by the increasingly powerful technology of the information age.

People and politicians, candidates and non-candidates alike, are left asking: Is this any way to pick a president?

Yet I also reject the argument that the central answer is systemic, that it depends on another round of reform, a new set of rules. A single, national primary would make the capacity to raise money even more decisive—and a multi-candidate race would put a high premium on polarizing the party. There may be a case for some kind of regional primaries; there are also sensible objections.

No system is perfect—and who would want to return to the time when a controlled convention could deny the clear preference of the people?

I think Iowa is as good a place to start as any—and as you may recall, I don't have a self-interest in saying that.

I also think that the press can do a better job of reflecting on its own role—and recognizing that the choice ultimately belongs to voters, not reporters.

Journalists, no matter how they act, will inevitably influence the process. The Heisenberg principle applies to presidential politics as well as physics: observing an event changes it. Nor would any of us want a press corps reporting only the facade of the campaign.

But here are some things I think we can do:

Candidates should be able to discuss campaign coverage without fear of being assailed as "whiners" or "complainers" or agents of repression. I see no prospect for a resurgence of Agnewism, which in any case consumed its own perpetrator. I do see a reason for an honest public dialogue founded on mutual respect—and no reason why a candidate should not be free to give a speech like this.

At the same time, the press can resist the standard of the lowest common denominator, the rationalization that all news is fit to print that has appeared anywhere else, in any barely respectable newspaper. There are hard questions here, but they are no excuses for not settling easy ones. Newspapers don't have to decide all the circumstances under which it's proper to follow someone around in order to decide that it's time to follow issues more seriously and more thoroughly. Handicapping the race is irresistible, but it should not be the ceaselessly beating heart of campaign journalism.

Finally, we can approach presidential elections with at least a minimal sense of consequence and history. Why not give stories historical context? Theodore White told us what went on inside a campaign, but he also related it to what had gone on in other generations and other campaigns. And those who borrow his approach should not leave half of it behind.

Soon much of what I have discussed here truly will be academic—the province of scholars, political scientists and historians. As the pace of events carries us past Iowa and New Hampshire and Super Tuesday, as Time and Newsweek and the networks feature and celebrate the winner, we will hear no more talk of dwarfs—and the result, no matter what it is, will appear to have been inevitable—or at least expected. It is always easier to read the tea leaves after the cup is drained. But I also hope that, here at this School, at the Press Center, and maybe even in the wider arena of the public dialogue, we will continue to think about how the tea was brewed—about the roles we all played—politicians and press, as well as voters. As we make the most decisive choice in the public life of the world, let us recall the words of T.H. Huxley: "The medieval university looked backwards; it professed to be a storehouse of old knowledge. The modern university looks forward; it is a source of new knowledge."

And when the subject is presidential politics—in 1987, we are all teachers, and we are all students, and we have a lot to learn.

THE PEARL HARBOR SUMMIT: HISTORICAL CONSIDERATIONS

Mr. HELMS. Mr. President, the visit of Mr. Gorbachev to Washington on the very anniversary of the attack on Pearl Harbor has been the occasion for considerable comment.

The irony has not been lost. The Japanese Empire, the violator of treaties, attacked the United States without warning on December 7, 1941.

Now another evil empire, the Soviet Union, has come pretending to proffer peace, but preparing for war.

Even as Japan was in the midst of diplomatic negotiations to establish peace in the Pacific, Japan attacked us.

Even as the Soviet Union pursues a diplomacy couched in the jargon of peace, her past history, her present history, and indeed her intentions for the future, as manifest in her military programs and deployment, are aimed directly at the disarmament of the West and the destruction of freedom. Today I shall take up the question of the historical issues; tomorrow it is my intention to address the Senate on broader strategic and economic issues.

At another time I shall speak of the treaty itself, whose benefits are not self-evident, and whose defects belie the euphoria that seems to intoxicate official Washington. Those defects are likely to receive a critical and extensive examination in the Senate.

Suffice it to say at this time that President Reagan gave his arms control negotiators four criteria for any arms control treaty in his administration. They are:

First, meaningful reductions

Second, reductions to equal levels

Third, effective verification

Fourth, cessation of Soviet violations.

It will be up to the administration to make its case that the INF Treaty in fact meets these criteria. A number of questions arise immediately:

First. Are the reductions meaningful when the Soviets have a plethora of other nuclear weapons for European targets?

Second. Can it be said that the reductions are equal when INF wipes out all the deterrent forces on the NATO side, and leaves the Soviet Union with 97 percent of its present missile levels?

Third. Can there be effective verification when our Government has never seen an SS-20, when we don't have even a picture of an SS-20, and when we don't know how many SS-20's the Soviets have to begin with? Can there be effective verification when we have only onsite inspection of those SS-20's which the Soviets have declared, and cannot inspect those which may be hidden on nondeclared sites?

Fourth. Can the INF Treaty have any meaning when no effort has been made to require the Soviets to stop violating the present treaties?

Indeed, Mr. President, the anniversary coinciding with the visit of Mr. Gorbachev reminds us that violations of treaties meant to keep the peace are a true barometer of future intentions. The Soviet record on peace treaty violations is a stark reminder of the fundamental and irreformable duplicity that accompanies every treaty negotiated, signed, and ratified with the Soviet Union.

Given the Soviet record, let us look then at some historical considerations suggested by the dates Mr. Gorbachev chose for his visit.

THE SNEAK ATTACK

Forty-six years ago, President Franklin D. Roosevelt stood before a joint session of Congress and began with the following statement:

Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.

The United States was at peace with that Nation and, at the solicitation of Japan, was still in conversation with its Government looking toward the maintenance of peace in the Pacific. Indeed, one hour after Japanese air squadrons had commenced bombing in the American Island of Oahu, the Japanese Ambassador to the United States and his colleague delivered to our Secretary of State a formal reply to a recent American message. And while this reply stated that it seemed useless to continue the existing diplomatic negotiations, it contained no threat or hint of war or of armed attack.

It will be recorded that the distance of Hawaii from Japan makes it obvious that the attack was deliberately planned many days or even weeks ago. During the intervening time, the Japanese Government has deliberately sought to deceive the United States by false statements and expressions of hope for continued peace.

Mr. President, with these words, President Roosevelt described the imminent peril confronting this Nation and the free world, and a few moments later asked for a declaration of war against the Japanese Empire. The entire speech took 6½ minutes. It took Congress only 33 minutes after the conclusion of the President's speech to pass, by a vote of 82 to 0 in the Senate and 388 to 1 in the House of Representatives, a joint resolution declaring that a state of war existed between the United States and Japan.

That hour was an historic moment in the annals of the United States. It is an hour that this Nation will never forget. But just because it is so familiar, we take it for granted. We do not study it in order to learn what that moment meant. I would like to take a few moments to draw for us some lessons that are applicable to our times.

Mr. President, it is worthwhile to analyze what President Roosevelt said.

First, he said that the United States was suddenly and deliberately attacked by Japan. There are two points to consider: The suddenness and the deliberateness—the suddenness because the United States was taken unaware, the deliberateness because it did not happen by accident, but after long planning.

Second, he said that the United States was at peace. We had no ulterior intentions. We were not preparing for war.

Third, he pointed out the deception of the Japanese. We were actually engaged in peace negotiations with the Japanese. At the very time they attacked, the Japanese Ambassador was exchanging polite notes with the Secretary of State, without a hint that hostilities were coming.

Fourth, he pointed out not only that the attack was deliberate, but that the deception was deliberate. This is why December 7, 1941, was a "day of infamy." It was not just the surprise attack, but the deliberate deception of the United States which was actively engaged in diplomatic activities intended to guarantee the peace in the Pacific. In other words, the peace negotiations were a coverup for the planning of the attack.

Finally, Mr. President, it is noteworthy that the deception included "false statements and expressions of hope for continued peace." It was not only a diplomatic campaign, but a propaganda campaign aimed at conquest.

The American people always find it difficult to believe that some nations operate out of malice, out of malice engendered by dreams of conquest. We took the Japanese at their word. We had no aims of dominance in the Pacific. We could not believe that anyone would adopt a course of action so contrary to their outward show. But we learned a lesson, a lesson written in blood and destruction.

These are lessons that are perennial. It was Commodore M.C. Perry, USN, the man who brought Western civilization to the East, to Japan specifically, who looked forward to modern events with prophetic vision. In 1856—over 130 years ago—Commodore Perry read a paper before the American Geographic and Statistical Society in New York which lays the present century before us with startling prediction. The Commodore said:

It requires no sage to predict events so strongly foreshadowed to us all; still "Westward" will "the course of empire take its way." But the last act of the drama is yet to be unfolded, and notwithstanding the reasoning of political empires, Westward, Northward, and Southward, to me it seems that the people of America will, in some form or other, extend their dominion and their power, until they shall have brought within their mighty embrace multitudes of the Islands of the great Pacific, and placed the Saxon race upon the eastern shores of Asia. And I think too, that eastward and southward will her great rival in future aggrandizement (Russia) stretch forth her power to the coasts of China and Siam: and thus the Saxon and the Cossack will meet once more, in strife or in friendship, on another field. Will it be friendship? I fear not! The antagonistic exponents of freedom and absolutism must thus meet at last, and then will be fought that mighty battle on which the world will look with breathless interests; for on its issue will depend the freedom or the slavery of the world—despotism or rational liberty must be the fate of civilized man. I think I see in the distance the giants that are growing up for that fierce and final encounter; in the progress of events that battle must sooner or later inevitably be fought.

Commodore Perry could not have seen how his vision would be realized—how the United States, with no desire of empire, would be drawn into a war with the Japanese Empire, and how the result would be an extraordinary extension of dominion and power resulting in the rebuilding of Japan into a peaceful nation, and a mighty friendship that embraces the multitudes of the islands of the great Pacific.

GENERAL MACARTHUR'S STRATEGIC VISION

Commodore Perry's vision reminds us of another speech before a joint session of Congress, a speech that took place on April 19, 1951. It was of course the speech by Gen. Douglas MacArthur, a man as familiar with the Pacific as the commodore, and one of the towering giants of our century. It was his leadership that fulfilled the commodore's prophecy. General MacArthur said:

Of more direct and immediate bearing upon our national security are the changes wrought in the strategic potential of the Pacific Ocean in the course of the past war. Prior thereto, the western strategic frontier of the United States lay on the littoral line of the Americas with an exposed island salient extending out through Hawaii, Midway, and Guam to the Philippines. That salient proved not an outpost of strength but an avenue of weakness along which the enemy could and did attack. The Pacific was a potential area of advance for any predatory force intent upon striking at the bordering land areas.

All this was changed by our Pacific victory. Our strategic frontier then shifted to embrace the entire Pacific Ocean, which became a vast moat to protect us as long as we could hold it. Indeed, it acts as a protective shield for all of the Americas and all free lands of the Pacific Ocean area. We control it to the shores of Asia by a chain of islands extending in an arc from the Aleutians to the Mariannas held by us and our free allies. From this island chain we can dominate with sea and air power every Asiatic port from Vladivostok to Singapore and prevent any hostile movement into the Pacific * * *. Under such conditions, the Pacific no longer represents a peaceful lake. Our line of defense is a natural one and can be maintained with a minimum of military effort and expense. It envisions no attack against anyone nor does it provide the bastions essential for offensive operations, but properly maintained would be an invincible defense against aggression.

The holding of this littoral defense line in the Western Pacific is entirely dependent upon holding all segments thereof, for any major breach of that line by an unfriendly power would render vulnerable to determined attack every other major segment. This is a military estimate as to which I have yet to find a military leader who will take exception.

Mr. President, this kind of strategic thinking seems to be absent from our national councils today. How well General MacArthur understood that the defense of the Nation depends upon holding all segments of our defense, lest any major breach render us vulnerable. The heart of any strategy for peace depends not only upon military strength to put up a protective shield against the enemy, but also the will to use that strength not only for defense, but to change an enemy seek-

ing domination into an ally reconstructed in liberty. General MacArthur had the mentality that understood the need for both; and he succeeded in the Pacific so admirably that the freedom of our allies in the Pacific today is an embarrassment to the apologists for totalitarian socialism everywhere.

Unfortunately, today we wistfully imagine that despotism can reform from within. We think that a strategic military defense is no longer the firm underpinning of freedom. We think that the Soviet Union, to be blunt, has "an interest" in peace, an interest to which we can appeal with rational arguments. One hundred and thirty years ago, Commodore Perry understood the conflict better than we do today.

COMMODORE PERRY ON THE UNITED STATES AND RUSSIA

Mr. President, Commodore Perry was also right in his perception of the Russian desire of aggrandizement of power and territory, how Russia would "stretch forth her power to the coasts of China and Siam"—or, we might say, Indochina—moreover, the commodore, over 130 years ago, correctly foresaw that the United States and Russia would meet "as the antagonistic exponents of freedom and absolutism." He could not have predicted the horrifying aberration of the human spirit known today as communism, but he caught the essence of the conflict.

And let us look again at what he said:

> Then there will be fought that mighty battle on which the world will look with breathless interest.

Is that not true, Mr. President? Is that not true? Does not the whole world wait to see what the resolution of that battle will be?

And the commodore was right again on the meaning of that battle. He said:

> On its issue will depend the freedom or the slavery of the world—despotism or rational liberty must be the fate of civilized man.

That is the choice we are faced with, today, Mr. President. That is the choice between communism and freedom. That is the choice between the Soviet Union—that massive gulag—and the United States.

Nor must we forget, Mr. President—and this is the most important oracle—nor must we forget the clear, unchallengable voice of the commodore ringing from the past, as he said:

> I think I see in the distance the giants that are growing up for that fierce and final encounter; in the progress of events that battle must sooner or later inevitably be fought.

Mr. President, we somehow think that the iron law that dominates human nature can change. We hope to avoid a conflict, and rightly so. No one wants war. But we forget that we are already engaged in a battle—not a battle fought with weapons, but a battle of steel nonetheless. It is the steel of one will against another will.

GORBACHEV ATTACKS PEARL HARBOR

That steel was exhibited only 2 months ago when, according to reports published in the Washington press, Mr. Gorbachev and the Chief of the Soviet General Staff, Marshal of the Soviet Union Akhromeyev, descended into an underground bunker near Moscow on September 29 and 30 and personally directed an important missile test.

The missile involved was the experimental TT-09 ICBM, also known as the SS-X-26. The salient points regarding this missile are as follows:

First, the SS-X-26 is the largest and most deadly missile known to man, heavier even than the super-heavy SS-18.

Second, the SS-X-26 is designed to carry 20 highly accurate, megaton-yield, hard-target-destroying warheads.

Third, the SS-X-26 is the third "new type" of ICBM, a gross violation of the 1979 SALT II restraints allowing only one "new type."

Fourth, the SS-X-26 violates the cap on heavy ICBM throwweight.

Fifth, the SS-X-26 tests violated the ban on encryption of missile-test telemetry, thus denying the information on flight characteristics supposedly guaranteed to us for purposes of monitoring compliance.

Sixth, Mr. Gorbachev directed the missile in an "over the pole" flight pattern, the first time any such pattern was ever tested by anybody, since an "over the pole" pattern implies a first strike.

Seventh, the SS-X-26 was being rushed ahead of schedule and tested at a period of its development which might have ended in disaster for its target had there been the slightest malfunction.

Eight, the target was Hawaii.

Mr. President, I cannot guarantee that Mr. Gorbachev personally entered the bunker to direct the test, as the newspaper accounts citing intelligence sources, related. Reportedly, all these facts were placed before the then National Security Adviser, Mr. Carlucci. But the tests did take place. The missile was aimed at Hawaii. The Senate voted overwhelmingly to condemn these tests. Even the State Department, struggling to master the art of understatement, sent a three-sentence protest. No one denies this.

Furthermore, Mr. Gorbachev is unquestionably the head of the Soviet Defense Council, and the Soviet Defense Council does have charge of such important tests. If Mr. Gorbachev was not physically present in the bunker, it is reasonable to assume that he approved the order for the test. It is even reasonable to assume that Marshal of the Soviet Union Akhromeyev was present, if not Gorbachev.

What does not seem reasonable is the Mr. Gorbachev and Marshal Akhromeyev 2 months later are being toasted in the White House, and the Marshal is a welcome guest of Secretary Carlucci in the Pentagon.

Mr. President, never before has a missile test been aimed at the sovereign territory of another nation. Never has there been a test of a missile so flagrantly in violation of past arms control agreements. Never before has there been a test of a missile in a first-strike pattern. Is Mr. Gorbachev trying to tell us something?

It is hardly fantasy to see a connection between the fact that Mr. Gorbachev ordered a test with Hawaii as a target—indeed, with Pearl Harbor as a target—in defiance of all agreements under international law, and his choice of December 7 as the date of his arrival, and December 8, the day President Roosevelt proclaimed the previous day to be a day of infamy, as the date of his signing the INF Treaty. Mr. Gorbachev has something to tell us. He who has ears to hear, let him hear.

Does Mr. Gorbachev come as a man of peace, or a man of intimidation? Perhaps some of those who see in him only a man of peace have been struck blind, just as the pilots of the American planes observing the SS-X-26 tests were struck blind by Soviet lasers.

Mr. President, observe the parallels of history.

Mr. Gorbachev proclaims himself to be a man of peace; but like the Japanese were doing in 1941, he is preparing for war.

Mr. Gorbachev purports to be negotiating arms control treaties; but like the Japanese, who were using the peace negotiations of the day for bloody purposes, Mr. Gorbachev prepares at careening speed the world's most deadly missile and aims at the United States.

Like the Japanese of 1941, the trail Mr. Gorbachev leaves behind is a trail of unrepentant violations. The symmetry between the Japanese attack on Pearl Harbor and Mr. Gorbachev's attack on Pearl Harbor is all too obvious.

It was General MacArthur who saw the dawn of the nuclear age. The sneak attack on Pearl Harbor ended in the tower of flame and cloud in Nagasaki. The war which he directed in the Pacific, the war which made the Pacific into a "peaceful lake," was successful in large part because of his brilliance and clear military thinking. But the peace which followed was also successful because of his objective and compassionate policies in rebuilding Japan. The true man of war and the

true man of peace are one and the same.

But the false man of war pretends to be a man of peace. The nuclear power of Hiroshima and Nagasaki has mushroomed into undreamed-of forces. The confrontation predicted by Commodore Perry between the Saxon and Cossack has come to pass, even though today "the Saxon" stands for a nation of many ethnic strains united in liberty, and "the Cossack" stands for a totalitarianism rooted in the denial of God. The giants he perceived to be moving toward that final and fierce encounter now face each other.

Do we understand that Mr. Gorbachev sees himself as a man of war, coming to take account of the booty he fully expects soon to be his?

Do we understand that Mr. Gorbachev can only have contempt for a nation that lavishes adulation on a man who uses their sovereign territory for deadly target practice?

Do we understand that Mr. Gorbachev's "false statements and expressions of hope for continued peace," as President Roosevelt characterized the Japanese actions, are but the prelude to what may well be the most dangerous period in our history?

QUESTIONS RAISED BY THE INF TREATY

The questions we must ask ourselves must center on the real reasons why Mr. Gorbachev is so eager to grant peace. The treaty signed by Mr. Gorbachev and the President deserves the closest of scrutiny—not only in terms of its text, but in terms of Soviet treaty compliance. We must ask ourselves whether the Soviets might have some ulterior motive in a treaty whose main accomplishment, the denuclearization of Europe and the neutralization of Europe, is a goal sought by Soviet strategic planners from the end of World War II.

We must ask ourselves why the Soviets are so eager to give up a marginal capability in SS-20's, a capability duplicated many times over with other weapons, in order to get rid of the Pershing II's, the one weapon in Western Europe that can wreak swift, sure, and certain retribution on Soviet territory against Soviet aggression. We must ask ourselves what could be the Soviet motive in making concessions that are militarily insignificant to them in return for the removal from NATO of the only weapon that chills their bones and makes them pause in the intimidation or invasion of Europe. Can we take away the one credible deterrent to war in Europe, and expect that there will be peace.

The issues in this treaty are not new. In 1919, an extraordinary strategic thinker, Sir Halford J. MacKinder, summarized them in a book called "Democratic Ideals and Reality." MacKinder wrote:

> Who rules East Europe commands the Heartland:
>
> Who rules the Heartland commands the World-Island:
>
> Who rules the World-Island commands the World.

That is what the INF Treaty is all about. We do not think of Europe any more as the Heartland, and we do not think of Eurasia as the World-Island. But the Soviets do. We must turn our maps upside down, and look at the world from the Soviet perspective. We must understand that once Europe is incorporated into the Soviet domain of influence and intimidation, then the United States becomes isolated and insular. The scope of world freedom will shrink to our shoreline, and we will be beleaguered and alone.

In short, Mr. President, there is only one question to be sought for in the heart of this treaty. Does this treaty make nuclear war more likely or less likely? Or to state it a different way, does this treaty make peace more likely or less likely?

PEACE IN OUR TIME

The people of our Nation universally desire real peace, but real peace is not to be had simply for the desiring. Real peace is inseparable from freedom. A peace treaty entered into blindly is but the prelude to defeat or destruction.

Winston Churchill understood that in the late 1930's in the period leading to Munich, the period he called the gathering storm. Churchill won no prizes for popularity in pointing out dangers to Britain, as Hitler broke treaty after treaty, agreement after agreement.

Instead, the popularity went to Chamberlain, the leader of Churchill's own party, the man who was bringing "peace in our time." As early as 1934, Churchill proposed an amendment in Parliament declaring that the strength of the military forces was no longer adequate "to secure the peace, safety, and freedom" of His Majesty's faithful subjects. The Air Minister, Baldwin, ridiculed Churchill's warnings, claiming that his figures of German strength were exaggerated by half, and it was impossible to predict what might happen by 1937.

As late as September 1938, Chamberlain could still speak of the war in Europe as "a quarrel in a faraway country between people of whom we know nothing." In a radio broadcast, he stated:

> I am myself a man of peace to the depths of my soul. Armed conflict between nations is a nightmare to me; but if I were convinced that any nation had made up its mind to dominate the world by fear of its force, I should feel that it must be resisted. Under such a domination, life for people who believe in liberty would not be worth living; but war is a fearful thing, and we must be very clear, before we embark on it that it is really great issues at stake.

A short while later, Chamberlain returned from Munich in triumph, but the Conservative Party was split by the angry resignation of the first Lord of the Admiralty, Duff Cooper, who summed up the situation as follows:

> The Prime Minister has confidence in the good will and in the word of Herr Hitler, although, when Herr Hitler broke the Treaty of Versailles, he undertook to keep the Treaty of Locarno, and when he broke the Treaty of Locarno, he undertook not to interfere further, or to have further territorial claims in Europe. When he entered Austria by force, he authorized his henchmen to give an authoritative assurance that he would not interfere with Czechoslovakia. That was less than six months ago. Still the Prime Minister believes that he can rely upon the good faith of Hitler.

The mistakes of Chamberlain were fatal, but many people of his time believed them to be sincere mistakes, carried out in an atmosphere of euphoria. As Churchill later wrote in "The Gathering Storm."

> There was widespread and sincere admiration for Mr. Chamberlain's persevering and unflinching efforts to maintain peace, and for the personal exertions which he had made. It is impossible in this account to avoid marking the long series of miscalculations, and misjudgments of men and facts, on which he based himself; but the motives which inspired him have never been impugned, and the course he followed required the highest degree of moral courage. . . . The differences which arose between leading Conservatives, fierce though they were, carried with them no lack of mutual respect, nor in most cases did they sever, except temporarily, personal relations. It was common ground between us that the Labour and Liberal Oppositions, now so vehement for action, had never missed an opportunity of gaining popularity by resisting and denouncing even the half-measures for defence which the Government had taken.

Mr. President, it is commonplace to state that we are at a great historical moment, that a new relationship with the Soviet Union is emerging, that arms control process is ushering in an era of peace. That is why I have taken some pains to examine crucial historical precedents, and what men of honor and vision have had to say about those times. Each person will study these precedents and draw his or her own conclusions, perhaps conclusions different from what I have drawn.

Nevertheless, I believe that it is legitimate to doubt that a new era is at hand; or, if one is a pessimist, that the new era may turn out to be one of a kind we did not foresee and would not have chosen. Yet, if we expect Soviet compliance in the future, we must examine Soviet compliance in the past. A treaty is worthless, and dangerous, if an adversary does not comply with the terms agreed upon.

THE SOVIET RECORD OF NONCOMPLIANCE

Mr. President, President Reagan laid down a reasonable criterion for his negotiators when he sent to Congress his March 10, 1987, Sixth Report on Soviet Noncompliance with Arms Control Agreements. He said:

Compliance with past arms control commitments is an essential prerequisite for future arms control agreements.

Just last week, however, President Reagan in his seventh report confirmed a serious new Soviet ABM Treaty violation to Congress. In the light of this new Soviet violation, it is useful to recall a quotation from Lenin in 1918: "Promises are like pie crusts, made to be broken."

Yet President Reagan is correct when he states that there can be no new arms treaty, no real treaty, until the Soviets comply with the old treaties. What good are arms control treaties if the Soviets do not comply with them?

Do arms control treaties, when not complied with, become nothing more than an exercise in unilateral disarmament?

Does the history of the unilateral disarmament of the Western democracies in the 1920's and 1930's demonstrate that unilateral disarmament and appeasement of totalitarian dictators lead only to instability, enslavement, war?

The historical record shows that the Soviet Union has violated virtually every single international security treaty it has ever signed, except one—the Hitler-Stalin Pact of August 23, 1939. But this treaty, the only one which the Soviets ever complied with fully, was the catalyst for World War II.

A summary of the facts of diplomatic history and of careful case studies shows clearly that the Soviets do not hesitate to sign treaties while fully intending to violate them from the very moment they are consummated.

Indeed, Mr. President, there is reason to believe that the INF Treaty just signed is another treaty that the Soviets have already violated. There is unclassified evidence that the Soviets have mixed the banned SS-20 missiles with the almost identical SS-25 ICBM's, which are outside the scope of the treaty.

It is worth while to recall what President Reagan said about the credibility of Soviet diplomacy just after the Soviets brutally shot down Korean Airlines Flight 007, murdering 269 innocent passengers, including our late distinguished colleague, Larry McDonald. Mr. Reagan said:

What can be said about Soviet credibility when they so flagrantly lie? What can be the scope of legitimate mutual discourse with a state whose values permit such atrocities? And what were we to think of a regime which establishes one set of standards for itself and another for the rest of mankind.

Mr. President, in addition to reminding the Senate of the long list of official United States Government findings of Soviet treaty violations since the Bolshevik Revolution of 1917, I would like to call two documents to the Senate's attention.

The first is the President's December 2, 1987, unclassified report on Soviet noncompliance with arms control agreements, and the second is the dissenting views to the report by the Permanent Select Committee on Intelligence of the House of Representatives entitled "Intelligence Support to Arms Control." These two most recent documents merely provide current and official support for my proposition that it is dangerous to sign new treaties with the Soviets, because they have not complied with any of the old ones.

The best summation of the Soviet attitude toward treaties was given by Soviet leaders themselves. As I noted, Lenin stated that "Promises are like pie crusts, made to be broken." Lenin also coldly admitted shortly after the March 1918 Soviet-German peace treaty of Brest-Litovsk that: "Yes, of course we are violating the treaty. We have already violated it 30 or 40 times." But Joseph Stalin most succinctly summarized Soviet diplomacy, when he made the famous statement that:

Words have no relation to actions—otherwise what kind of diplomacy is it? Words are one thing, actions another. Good words are a mask for concealment of bad deeds. Sincere diplomacy is no more possible than dry water or wooden iron.

If Soviet leader Gorbachev's "glasnost" [Glass-nost] and "perestroika" [para-stroy-ka] policies made him a different kind of Soviet leader, perhaps the Soviet Union would not be increasing its violations of the SALT I ABM Treaty on the very eve of the Pearl Harbor Summit, as President Reagan has just confirmed to Congress.

Indeed, I believe that Gorbachev is no different from all the rest of the Soviet leaders before him. Not only did he have a long career in the KGB, he resorted to murder to destroy his rivals and become Soviet General Secretary, but his so-called reformist policies have only one fundamental objective—to make the Soviet Union more effective in its quest for domination over the United States.

Mr. President, 32 years ago, on August 1, 1955, the Senate Committee on the Judiciary filed an important report on Soviet treaty violations. This report was followed by similar Senate Judiciary Committee reports on January 1, 1959, and January 1, 1964. The Department of Defense made a similar report on Soviet treaty violations on November 5, 1962.

These four official reports covered more than 150 Soviet international security treaty violations from 1917 through 1964.

But then, for the next 20 years, there was total, complete official blackout of the news of Soviet treaty violations.

On January 23, 1984, that official, United States Government cover-up ended with President Reagan's first report to Congress on Soviet SALT violations. The first report established Ronald Reagan as the first President to have the courage officially and publically to accuse the Soviet Union of violating SALT treaties.

It was a historic report, because it broke the 20 year silence from official Washington on Soviet violations of international security treaties.

Since that January 23, 1984, historic Presidential Report to Congress on Soviet SALT Violations, there have been six more, for a total of seven official reports to Congress on Soviet SALT cheating. These reports establish a still-expanding pattern of over 50 Soviet violations of SALT and other arms control treaties.

These seven Reagan administration reports, together with the previous four 1955-64 reports from both the legislative and the executive branches, are of real significance for U.S. security and world peace. Without Soviet compliance with arms control and international security treaties, there can be no order in international relations and no reliable security arrangements not wholly based on military might.

But now a total of 11 official United States Government reports to Congress confirming over 200 Soviet treaty violations establish the fact that the Soviets always cheat on their solemn legal commitments to comply with international security treaties.

Soviet noncompliance with treaties will inevitably increase the risk of war. That is why the chief American arms control negotiator in Geneva, our distinguished Ambassador Max Kampelman, himself stated recently that:

It is essential in our negotiations in Geneva that we highlight the issue of Soviet violations of existing arms control agreements, even though they will yell like stuck pigs.

But as Lenin stated in 1916, "Every peace program is a deception * * * unless its principal object is * * * the revolutionary struggle."

Mr. President, I will now remind the Senate of the chronological history of these Soviet treaty violations, which is appropriate just as President Reagan and Gorbachev are signing a new treaty.

Here is a list of the most important violations of international security treaties from the official 1962 Defense Department report:

1. On May 7, 1920, the new Soviet regime signed a treaty with the independent Georgian Republic, pledging no interference in Georgia's internal affairs. The Soviet violation: On February 11 and 12, 1921, Soviet troops invaded Georgia, in a step leading to

the absorption of the Republic into the USSR.

2. On March 16, 1921, in a trade agreement with Britian, the Soviet Union pledged not to engage in propaganda in Britain. The Soviet violation: On May 26, 1927, Britain ended the agreement because of Soviet violations, including Soviet failure to stop propaganda inside Britain as promised.

3. On June 5, 1922, the Soviet Union concluded a friendship agreement with Czechoslovakia. The Soviet violation: On June 29, 1945, the USSR compelled Czechoslovakia to cede the Carpatho-Ukraine to the Soviet Union.

4. On December 12, 1943, the USSR and the Czech Government-in-exile signed a treaty of friendship and mutual assistance. The Soviet violation: On February 25, 1948, the Czechoslovakian Government was forced to accept a Communist ultimatum as the Soviet Union completed arrangements to force the country into its satellite empire. The Soviet ultimatum compelled the appointment of a cabinet of Moscow followers, and it climaxed the Soviet postwar drive to absorb the once-independent Czechoslovakia.

5. On December 17, 1925, the USSR signed a nonaggression and neutrality pact with Turkey. The Soviet violation: On March 20, 1945, the USSR denounced this pact, and began a campaign to secure control of the Black Sea straits.

6. On August 31, 1926, the Soviet Union concluded a nonaggression pact with Afghanistan. The Soviet violation: On June 14, 1946, the USSR forced Afghanistan to cede the border territory of Kishka.

7. On September 28, 1926, the Soviet Union made a nonaggression pact with Lithuania, later extending the agreement through 1945. The Soviet violation; On June 15, 1940, Soviet troops invaded Lithuania. On August 8, 1940, Lithuania was annexed by the Soviet Union.

8. On September 27, 1928, the Soviet Union adhered to the Kellogg-Briand pact for the renunciation of war. The Soviet violation: The Soviet Union violated this pledge by their 1939-40 invasions of Poland, Lithuania, Estonia, Romania, and Finland.

9. On January 21, 1932, the USSR agreed to a nonaggression pact with Finland. The Soviet violation: On November 30, 1938, Soviet military forces invaded Finland.

10. On February 5, 1932, the Soviet Union signed a nonaggression pact with Latvia. The Soviet violation: On June 16, 1940, Soviet troops invaded Latvia.

11. On May 4, 1932, the Soviet Union pledged nonagression in an agreement with Estonia. The Soviet violation: On June 16, 1940, Soviet military forces invaded and occupied Estonia.

12. On July 25, 1932, the Soviet Union signed a nonaggression pact with Poland. The Soviet violation: On September 17, 1939, Soviet troops invaded Poland.

13. On May 8, 1934, the USSR and Poland extended their nonaggression pact for ten years. The Soviet violation: On September 29, 1939, the USSR signed an agreement with Nazi Germany to partition Poland.

14. On June 9, 1934, the USSR agreed to recognize Romania, and to guarantee her sovereignty. The Soviet Violation: On June 27, 1940, the Soviet army invaded and occupied the Romanian provinces of Bessarabia and Northern Bukovina.

15. On September 15, 1934, the USSR entered the League of Nations, pledging thereby "the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another." The Soviet violation: On August 23, 1939, the USSR made a treaty with Nazi Germany, termed "a joint conspiracy" to deprive Poland, Estonia, Latvia, Lithuania, Finland, and Romania of their independence and territorial integrity.

16. On August 31, 1937, the Soviet Union signed a nonaggression pact with the Republic of China. The Soviet violation: On October 2, 1940, the USSR broke relations with the Republic of China, after recognizing the Communist Chinese regime it helped to eventually gain power in 1948.

17. On July 30, 1941, the USSR concluded an agreement with the Polish Government-in-exile, pledging mutual aid and cooperation. The Soviet violation: On April 28, 1943, the USSR broke its relations with the Polish Government-in exile, on the pretext of the Polish request for a Red Cross investigation of the Katyn Forest Massacre.

18. On September 4, 1941, the Soviet Union pledged adherance to the Atlantic Charter, which provided that agreeing countries seek no aggrandizement, that the countries desired no territorial changes not made with the freely expressed wishes of the people concerned, and that they respected the right of all peoples to choose their own government. The Soviet violation: Against these promises stands the Soviet Union's record of occupation and domination of Romania, Estonia, Latvia, Lithuania, Czechoslovakia, Tannu Tuva, Afghanistan territory, Hungary, East Germany, Albania, Bulgaria, Poland, North Korea, and Mongolia.

19. On January 29, 1942, the Soviet Union, with Iran and Britain, signed a treaty of alliance, providing for the Military use of Iranian territory only until the end of military operations against Germany. The Soviet violation: The Soviet Union refused to withdraw its troops from Iran at the end of World War Two.

20. On February 4-11, 1945, at the Yalta Conference, the USSR agreed on various postwar measures, including adoption of a resolution that the liberated peoples of Europe should have the opportunity to solve their economic problems by democratic means. The Soviet violation: In violation of this agreement stands the USSR's record of dominations in Bulgaria, Romania, Poland, East Germany, Hungary, and Czechoslovakia, and other countries which were forced into postwar roles as satellites of the Soviet Union.

21. On February 11, 1945, the USSR at the Yalta Conference, agreed to a declaration that the Polish provisional government "shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot." The Soviet violation: On January 5, 1947, the Soviet Union refused to participate in the meeting with the United States and Britain to secure compliance with the 1945 agreement pledging free elections in Poland.

22. On April 11, 1945, the USSR signed a 20 year treaty of friendship, mutual aid, and cooperation with Yugoslavia. The Soviet violation: On September 29, 1949, the USSR denounced this agreement.

23. On June 14-18, 1945, President Truman and Premier Stalin agreed, in an exchange of letters, to "free access by air, road, and rail, from Frankfurt and Bremen to Berlin for U.S. forces." The Soviet violation: From April 1, 1948, to May 12, 1949, the Soviet Union imposed the Berlin Blockade by severing all land and water routes between Berlin and West Germany. The Western Allies supplied Berlin by airlift. In March, 1962, the Soviet Union harassed flights by Allied airplanes between Berlin and West Germany.

24. On July 17 to August 2, 1945, at the Potsdam Conference, the USSR agreed that there should be uniform treatment of the German people throughout Germany. The Soviet violation: East Germany today continues to be a rigidly controlled Soviet satellite. Its people have been denied free elections, have been isolated from the people of West Germany, and have been victimized by the same kind of regimentation, police rule, and economic restrictions imposed on the people of the Soviet Bloc states in Europe.

25. On August 14, 1945, the Soviet Union entered into a treaty with the Republic of China, containing these pledges: "Each high contracting party undertakes not to conclude any alliance and not to take any part in any coalition directed against the other high contracting party . . . the treaty comes into force immediately . . . and shall remain in force for a term of 30 years." The Soviet violation: On February 14, 1950, these pledges were broken when the USSR made a new agreement with the Communist Chinese regime it had helped to create. The Soviets did not even bother to change the basic wording. The new treaty also pledges: "Both high contracting parties undertake not to conclude any alliance against the other high contracting party . . . The present treaty will be valid for 30 years."

26. On March 10, 1947, the Soviet Council of Ministers, meeting in Moscow, agreed that all German prisoners of war should be repatriated by December 31, 1948. The Soviet Violation: On August 3, 1955, the Soviets furnished the West German Red Cross with data on the health and whereabouts of only 20 of the approximately 14,000 Germans known to be still held in the USSR.

27. On May 4 and June 20, 1949, Four Power Agreements of New York and Paris guarantee the United States, British, French, and Soviet joint control of Berlin, all access routes to and from the city, and freedom of movement within the city. The Soviet violation: On September 20, 1955, the USSR unilaterally transferred Soviet control over all access routes to and from Berlin to the East German regime.

28. On July 27, 1956, the military armistice was established between the United Nations command and opposing communist forces of North Korea and China, assisted by the USSR. The Armistice Agreement pledged signers to "cease introduction into Korea of reinforcing military personnel." The Soviet violation: On July 11, 1956, the United Nations command detailed a long list of armistice agreement violations by communist parties. On May 6, 1957, the U.N. command, in another series of official complaints, charged that the communists had sent troops into Korea's demilitarized zone six times in a period of less than 4 months.

29. On January 14, 1956, the USSR signed an agreement with Yugoslavia, pledging $110 million in credits for industrial construction. On August 4, 1956, the USSR pledged an additional grant of $175 million, bringing the total to $285 million. The Soviet violation: On May 28, 1958, Yugoslav sources disclosed that the Soviet Union had postponed for five years the grant to Yugoslavia amounting to $285 million. This represented an attempt to retaliate against Yugoslavia for its refusal to accept the Soviet Communist Party's ideological leadership.

30. On October 19, 1956, the USSR-Japanese joint declaration pledged the Soviet Union to refrain from interference in Japan's internal affairs. The Soviet violation: In 1958, during the weeks preceding the Japanese elections of May 22, the Soviets beamed radio propaganda at Japan violently opposing the election of Premier Kishi's government. Between 1959 and 1960, the USSR threatened Japan with the possibility of nuclear war if Japan ratified the U.S.-Japan security treaty, signed January 19, 1960.

Mr. President, the above only partial listing of Soviet violations of international security treaties occurred between 1917 and 1960, and they were officially confirmed by the Senate Judiciary Committee and by the Department of Defense in 1962 and 1964. But there was a long hiatus from 1964 until 1984, when there were no official United States Government reports on Soviet treaty violations. Then on January 23, 1984, President Reagan made his first report to Congress on Soviet SALT violations. There have now been seven such reports to Congress, confirming the following numerical tabulation of Soviet violations of SALT and other arms control treaties:

First. SALT I ABM Treaty—10 confirmed violations;

Second. SALT I Interim Agreement—5 confirmed violations;

Third. SALT II Treaty—22 confirmed violations;

Fourth. Limited Test Ban Treaty—30 confirmed violations;

Fifth. Threshold Test Ban Treaty—24 likely violations;

Sixth. Biological Warfare Convention—multiple confirmed violations;

Seventh. Geneva Protocol on Chemical Weapons—multiple confirmed violations;

Eighth. Kennedy-Krushchev Agreement of 1962—Confirmed violations.

In addition, Mr. President, long before SALT began in 1969, the Soviets violated two significant arms control treaties, one in the 1920's, which even entailed on-site inspection, and another in the late 1940's. Soviet authorities on international law have candidly stated their view of treaty compliance: "Those institutions of international law which can facilitate the accomplishment of the stated tasks of Soviet foreign policy are recognized and applied in the USSR; those which contradict these aims in any way are rejected."

According to an official U.S. State Department Soviet Affairs Note dated August 10, 1959:

"Few nations can match the USSR in vociferous protestations of loyalty to international obligations! However, such declarations which are typical of Soviet propagandists and scholars alike—diverge widely from Soviet practice. In the years since the Bolshevik Revolution the Soviet government, while consistently accusing others of bad faith in international dealings, has not hesitated to violate its own treaty obligations when such actions appeared to be in its interest. The history of the last 40 years provides numerous examples of deliberate treaty violation by the Soviet regime.* * * The USSR has disregarded treaty provisions inconvenient to itself, has unilaterally denounced conventions to which it is a party, has threatened abrogation as a means of intimidation, and has on several occasions attacked fellow signatories to treaties of friendship and nonaggression.

Mr. President, I ask unanimous consent that the December 2, 1987 report entitled "The President's Unclassified Report On Soviet Noncompliance With Arms Control Agreements" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S UNCLASSIFIED REPORT ON SOVIET NONCOMPLIANCE WITH ARMS CONTROL AGREEMENTS

The following is the text of a letter from the President to the Speaker of the House of Representatives and to the President of the Senate transmitting the President's report, in classified and unclassified versions, on Soviet noncompliance with arms control agreements as required by P.L. 99-145.

DEAR MR. SPEAKER (Dear Mr. President): In response to congressional requests as set forth in Public Law 99-145, I am forwarding herewith classified and unclassified versions of the Administration's report to the Congress on Soviet noncompliance with arms control agreements. (Detailed classified briefings will be available to the Congress in the near future.)

The information contained in this report, in addition to that provided in our previous reports, is essential to understanding the problems we face in seeking to achieve sound, equitable and verifiable agreements for arms reductions that will strengthen our security and that of our allies.

The Soviet Union to date has not corrected its noncompliance activities. Indeed, since the last report, there has been an additional case of Soviet violation of the ABM Treaty in the deployment of an ABM radar at Gomel, and other violations are continuing.

No violations of a treaty can be considered to be a minor matter, nor can there be confidence in agreements if a country can pick and choose which provisions of an agreement it will comply with. The Gomel violation can be quickly corrected by the Soviet Union if it so chooses. We are urging them to take the actions needed to do so, and to resolve other longstanding violations, especially that of their radar located at Krasnoyarsk. Correcting their violations will be a true test of Soviet willingness to enter a more constructive relationship and broaden the basis for cooperation between our two countries on security matters.

I am confident the Congress fully shares my concern about Soviet noncompliance. Congressional support and consensus on this issue is an essential element of our efforts to secure corrective actions, and pursue the kind of arms reductions agreements that will best serve the interests of the United States and the world.

Sincerely,

RONALD REAGAN.

SOVIET NONCOMPLIANCE WITH ARMS CONTROL AGREEMENTS

At the request of Congress, I am submitting this report on Soviet Noncompliance with Arms Control Agreements. This Report represents another in a series of reports to Congress by this Administration regarding this serious issue. The series includes Reports dated January 1984, February and December 1985, March 1987, and the 1984 Report on Soviet Noncompliance prepared for me by the independent General Advisory Committee on Arms Control. Each of these reports has enumerated and documented, in detail, issues of Soviet noncompliance and our attempts to resolve the issues. Likewise, this Report addresses questions of Soviet noncompliance with existing arms control agreements, including the Anti-Ballistic Missile Treaty, the Biological and Toxin Weapons Convention, the Geneva Protocol on Chemical Weapons, and the Limited Test Ban Treaty. Now that we have put the SALT I Interim Agreement and the SALT II Treaty behind us, Soviet activities with respect to those agreements are not treated in this Report. I will report on the Threshold Test Ban Treaty at a later date. The provisions of the Helsinki Final Act that relate to military security and confidence-building have been superseded by the Stockholm Document, a development that is treated later in this introduction. When taken as a whole, this series of reports provides a clear picture of continuing Soviet violations and forms the basis for our concern that future agreements must be effectively verifiable and complies with.

In the December 23, 1985, Report, I stated:

"The Administration's most recent studies support its conclusion that there is a pattern of Soviet noncompliance. As documented in this and previous reports, the Soviet Union has violated its legal obligation under, or political commitment to, the SALT I ABM Treaty and Interim Agreement, the SALT II Agreement, the Limited Test Ban Treaty of 1963, the Biological and Toxin Weapons Convention, the Geneva Protocol on Chemical Weapons, and the Helsinki Final Act. In addition, the USSR has likely violated provisions of the Threshold Test Ban Treaty."

I further stated:

"At the same time as the Administration has reported its concerns and findings to the Congress, the United States has had extensive exchanges with the Soviet Union on Soviet noncompliance in the Standing Consultative Commission (SCC), where SALT-related issues (including ABM issues) are discussed, and through other appropriate diplomatic channels."

The compliance concerns enumerated in this Report are not unfamiliar to the Soviet Union. I expressed my personal interest in these issues directly to General Secretary Gorbachev during my meetings with him, both in 1985 in Geneva and then again in Reykjavik in October 1986. In addition, the Standing Consultative Commission discusses compliance concerns in detail during its biannual sessions. The classified Report includes detailed summaries of this SCC dialogue. Most recently, Secretary of State Shultz raised U.S. concerns about Soviet noncompliance during his October 1987 visit to Moscow.

Additional time has passed and, despite these continuing intensive efforts and the critical stage we have entered in the negotiation of arms reductions of historic propor-

tion, the Soviet Union has failed to correct its noncompliant activities; neither have they provided explanations sufficient to alleviate our concerns on other compliance issues. Indeed, recent Soviet activities at an electronics facility at Gomel have raised an additional compliance issue with regard to the ABM Treaty.

Compliance with treaty obligations is a cornerstone of international law; States are to observe and comply with obligations they have freely undertaken. In fact, in December 1985, the General Assembly of the United Nations recognized the importance of treaty compliance for future arms control, when, by a vote of 131-0 (with 16 abstentions), it passed a resolution that:

Urges all parties to arms limitation and disarmament agreements to comply with their provisions;

Calls upon those parties to consider the implications of noncompliance for international security and stability and for the prospects for further progress in the field of disarmament; and

Appeals to all UN members to support efforts to resolve noncompliance questions "with a view toward encouraging strict observance of the provisions subscribed to and maintaining or restoring the integrity of arms limitation or disarmament agreements."

Congress has made clear its concern about Soviet noncompliance with arms control agreements. In February 1987, the Senate passed a resolution, by a vote of 93-2, which:

"Declares that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been its violation of existing agreements, and calls upon it to take steps to rectify its violation of such agreements and, in particular, to dismantle the newly-constructed radar site at Krasnoyarsk, Union of Soviet Socialist Republics, since it is a clear violation of the terms of the Anti-Ballistic Treaty . . .".

The Senate repeated its call for dismantlement of the Krasnoyarsk radar in a resolution dated September 16, 1987. For its part, the House of Representatives, on May 6, 1987, voted 416-0 in support of a resolution recognizing that by constructing the Krasnoyarsk radar, the Soviet Union was in violation of its legal obligations under the ABM Treaty.

Compliance with arms control commitments remains an essential element of my arms control policy. As I have stated before:

"In order for arms control to have meaning and credibly contribute to national security, it is essential that all parties to agreements fully comply with them. Strict compliance with all provisions of arms control agreements is fundamental, and this Administration will not accept anything less."

I have also said that:

"Soviet noncompliance is a serious matter. It calls into question important security benefits from arms control, and could create new security risks. It undermines the confidence essential to an effective arms control process in the future . . . The United States Government has vigorously pressed, and will continue to press these compliance issues with the Soviet Union through diplomatic channels."

Despite these continuous efforts, I regret to report that during the period since my last Report, the Soviet Union has failed to correct its noncompliance activity or to provide explanations sufficient to alleviate our concerns. Soviet explanations and actions are fully described in the Report. The Report presents and distinguishes between both violations and possibly noncompliant actions which are historical in nature and instances of ongoing and new noncompliant behavior.

THE ABM TREATY

We continue to have deep concerns about Soviet noncompliance with the ABM Treaty. One of our principal concerns is with the Krasnoyarsk radar which is a clear violation of the Treaty. The radar demonstrates that the Soviets were designing and programming a prospective violation of the ABM Treaty even while they were negotiating a new agreement on strategic offensive weapons with the United States.

The only permitted functions for a large, phased-array radar (LPAR) with a location and orientation such as that of the Krasnoyarsk radar would be space-tracking and national technical means (NTM) of verification. Based on conclusive evidence, however, we judge that this radar is primarily designed for ballistic missile detection and tracking, not for space-tracking and NTM as the Soviets claim. Moreover, the coverage of the Krasnoyarsk radar closes a major gap in the coverage of the Soviet ballistic missile detection, warning, and tracking screen. Its location allows it to provide warning of a ballistic missile attack, to acquire attack characterization data that will enable the Soviet strategic forces to respond in a timely manner, and that could aid in planning the battle for Soviet defensive forces.

All LPARs, such as the Krasnoyarsk radar, have the inherent capability to track large numbers of objects accurately. Thus, they not only could perform as ballistic missile detection, warning, and tracking radars, but also have an inherent technical potential, depending on location and orientation, of contributing to ABM battle management.

LPARs have always been considered to be the long lead-time element of a possible territorial defense. Taken together, the Krasnoyarsk radar and other Soviet ABM-related activities give us concern that the Soviet Union may be preparing an ABM defense of its national territory. Some of the activities, such as the construction of new LPARs on the periphery of the Soviet Union and the upgrade of the Moscow ABM system, appear to be consistent with the ABM Treaty. The redundancy in coverage provided by these new radars and the disposition of these radars closely resembles the design of the U.S. Safeguard ABM program. The construction of the radar near Krasnoyarsk and the deployment of a Flat Twin and a Pawn Shop outside a permitted ABM system deployment area or designated ABM test range are violations of the ABM Treaty. Other Soviet ABM-related activities involve potential or probable Soviet violations or other ambiguous activity. These other issues, discussed fully in the body of the report, are:

The testing and development of components required for an ABM system that could be deployed to a site in months rather than years, and the movement of parts of Flat Twin and Pawn Shop for a new location;

The concurrent operation of air defense components and ABM components;

The development of modern air defense systems that may have some ABM capabilities;

The demonstration of an ability to reload ABM launchers in a period of time short enough to cause us concern as to Soviet capabilities and intent; and

The locating of parts of a Flat Twin and Pawn Shop at a location that is neither a permitted ABM deployment area nor an agreed test range.

Soviet activities during the past year have contributed to our concerns. Construction is continuing on three additional LPARs similar to the Krasnoyarsk radar. These new radars are located near the periphery of the western USSR and oriented consistent with the ABM Treaty's provisions on ballistic missile early warning radars (if they are for early warning). The primary mission of these radars is ballistic missile detection and tracking.

The Soviets have sought recently to convey the impression that they are addressing our concerns in a responsible fashion, but have not taken any actions which in fact redress our concerns regarding their possible preparation of a territorial defense. For example, on September 5, 1987, a U.S. Congressional Delegation was permitted to visit the Krasnoyarsk radar. Although the Soviet invitation represented a departure from the long Soviet history of secrecy in such matters, the observations of the Congressional Delegation regarding the stage of construction, the quality of construction, and other features of the radar in no way change the assessment that the radar is designed for ballistic missile detection and tracking. The radar is unquestionably an LPAR, whose location and orientation are inconsistent with the ABM Treaty.

In recent years, we have gathered an increased amount of evidence on activities that could be associated with Soviet concurrent operations. This may or may not indicate an increase in Soviet concurrent operations. Also of significant concern is the initial deployment in the western USSR to Soviet ground forces of the SA-12 defensive system, a variant of which has been tested against tactical ballistic missiles and may have some ABM capability.

Our continuing reexamination of Soviet ABM-related activities demonstrates that the Soviets have not corrected their outstanding violation, the Krasnoyarsk radar. With regard to Krasnoyarsk, on October 23, General Secretary Gorbachev told Secretary of State Shultz that the Soviets were imposing a one-year construction moratorium on Krasnoyarsk. Although activities at Krasnoyarsk continue to be noted, the remaining work needed on the radar is interior work, so that it would be difficult to ascertain whether the Soviets have indeed ceased construction at the site.

The absence of Soviet dismantlement of the Krasnoyarsk radar, the new violation in the deployment of the Flat Twin and Pawn Shop observed at Gomel, and the totality of Soviet ABM-related activities in 1987 and previous years, suggest that the USSR may be preparing an ABM defense of its national territory.

The Soviet Union clearly continues to increase its capability to deploy an ABM defense. The Soviet programs involved a much greater investment of plant space, capital and manpower than comparable U.S. programs. As I said in the December 1985, Report, a unilateral Soviet ABM defense: "would have profound implications for the vital East-West balance. A unilateral Soviet territorial ABM capability acquired in violation of the ABM Treaty could erode our deterrent and leave doubts about its creditibility."

CHEMICAL, BIOLOGICAL AND TOXIN WEAPONS

The integrity of the arms control process is also hurt by Soviet violations of the 1925 Geneva Protocol on Chemical Weapons and

the 1972 Biological and Toxin Weapons Convention. Information obtained in 1987 does nothing to allay our concern about Soviet noncompliance with these important agreements. Progress toward an agreement banning chemical weapons is affected by Soviet noncompliance with the Biological and Toxin Weapons Convention. Because of the record of Soviet noncompliance with past agreements, we believe verification provisions are a matter of unprecedented importance in our efforts to rid the world of these heinous weapons—weapons of mass destruction under international law.

The U.S. has determined that the Soviet Union has maintained an active offensive biological warfare program and capability. Until recently, the Soviet Union has never acknowledged that it conducted even permitted BW-related activities other than to say that it had been in compliance with its obligations under the BWC.

As a result of the 1986 BWC Review Conference, States party to the Convention agreed to exchange information on facilities built for high-risk (high-containment) biological experiments and facilities engaged in other activities relating to the convention. The Soviet submission is an unprecedented public declaration of permitted Soviet BW-related facilities and is a welcome step.

An example of the discrepancy between Soviet public and private arms control diplomacy is the recent Soviet treatment of our concerns regarding an outbreak of anthrax in Sverdlovsk in 1979. The U.S. has evidence that the outbreak occurred as a result of an accidental release of large quantities of anthrax spores from a prohibited BW facility, contributing to our concerns about the Soviet BW program. We have raised the issue repeatedly with the Soviets as early as March 1980, and have been told that the outbreak stemmed from the consumption of contaminated meat.

Since the 1986 BWC Review Conference, the Soviets have provided additional details regarding the incident in various informal public fora. However, the Soviet account is inconsistent with information available to us, and in many aspects is not consistent with a contaminated meat explanation.

Again, while we welcome the provision of new information and the opportunity to discuss these issues, our concerns regarding the Soviet biological warfare program and capability are unanswered. The Soviets have maintained a prohibited offensive biological warfare capability. It may include advanced biological agents about which we have little knowledge and against which we have no defense. The Soviets continue to expand their chemical and toxin warfare capabilities, contrary to their public claims. Neither NATO retaliatory nor defensive programs can begin to match the Soviet effort. And, even though there have been no confirmed reports of attacks with lethal chemical, biological or toxin agents since 1984, previous activities have provided the Soviets with valuable testing, development, and operational experience.

NUCLEAR TESTING

The record of Soviet noncompliance with the treaties on nuclear testing is of legal and military concern. Since the Limited Test Ban Treaty (LTBT) came into force over 20 years ago, the Soviet Union has conducted its nuclear weapons test program in a manner incompatible with the aims of the Treaty. That conduct regularly resulted in the release of nuclear debris into the atmosphere beyond the borders of the USSR. When the Soviets ended their unilateral nuclear testing moratorium on February 26, 1987, they resumed their pattern of noncompliance with treaties on nuclear testing by conducting the test in a way which resulted in the release of radioactive matter into the atmosphere beyond the borders of the USSR. Even though the material from these Soviet tests does not pose calculable health, safety or environmental risks, and these infractions have no apparent military significance, our repeated attempts to discuss these occurrences with Soviet authorities have been rebuffed. The United States presented demarches to the Soviets on two separate occasions of unambiguous venting in 1987 and received completely unacceptable explanations. Soviet refusal to discuss this matter calls into question their sincerity on the whole range of arms control agreements.

During their 1985-86 moratorium, the Soviets undoubtedly maintained their test sites because they quickly resumed testing and have since conducted a series of tests. One of these tests raised sufficient concern about Soviet compliance with the 150 kt limit of the Threshold Test Ban Treaty (TTBT) that the U.S. raised the issue with the Soviets.

In the March 1987 Report we reaffirmed the December 1985 U.S. Government judgment that, "Soviet nuclear testing activities for a number of tests constitute a likely violation of legal obligations under the Threshold Test Ban Treaty." We also reported that the finding would stand until a number of studies, which had been initiated in an attempt to provide a somewhat improved basis for assessing Soviet compliance, could be completed. While significant progress has been made on those technically difficult issues, we do not expect to provide an update until next spring.

The United States and the Soviet Union have met several times at the experts level to discuss the broad range of issues relating to nuclear testing. In a joint statement issued at the time of the September 1987 meeting between Secretary of State Shultz and Soviet Foreign Minister Shevardnadze, the two sides indicated their intention to design and conduct joint verification experiments at each other's test sites. On November 9, 1987, the United States and the Soviet Union began full-scale, stage-by-stage negotiations in which the first step is to agree on effective verification measures which will make it possible to ratify the U.S.-USSR TTBT and Peaceful Nuclear Explosions Treaty (PNET). As a result of this first round of discussions, arrangements are being made for preliminary visits to each side's test sites.

THE HELSINKI FINAL ACT

The Accord reached at the 1986 Stockholm Conference on Confidence- and Security-Building Measures containing new standards for notification, observation, and verification of military activities, including on-site inspection, went into effect January 1, 1987. To date, Soviet military activity forecasts, subsequent notifications, and the acceptance of requests for two inspections have been consistent with their obligations under the new agreement. The Soviets have provided the minimum information required and have, therefore, remained within the scope of their obligations. In view of this and without any new evidence, this compliance issue will not be treated in this report. However, we have exercised our prerogative for on-site inspection and will be carefully monitoring Soviet compliance with these new standards. While this Accord appears to be a step in the right direction, we must continue to seek further confidence and security building measures.

COMPLIANCE AND ARMS CONTROL

A consistent and fundamental priority of my Administration has been achieving deep and equitable reductions in the nuclear offensive arsenals of the U.S. and USSR. That goal is closer to reality than it has ever been in the history of mankind, but it will be achieved only if effective verification and total compliance are integral elements of the process both with respect to existing arms control agreements and possible new ones.

We must insist on effective verification of the provisions of these new agreements, respond appropriately to any Soviet noncompliance, and continue to make our strategic decisions based on the nature and magnitude of the Soviet threat. A double standard of compliance with arms control obligations is unacceptable.

I look forward to continued close consultations with the Congress as we seek to make progress in resolving compliance issues and in negotiating sound arms control agreements.

The findings of Soviet noncompliance with arms control agreements follow.

THE FINDINGS

Anti-Ballistic Missile (ABM) Treaty

Treaty Status

The 1972 ABM Treaty and its Protocol ban deployment of ABM systems except that each Party is permitted to deploy one ABM system around its national capital area or, alternatively, at a single ICBM deployment area. The ABM Treaty is in force and is of indefinite duration. Soviet actions not in accord with the ABM Treaty are, therefore, violations of a legal obligation.

1. The Krasnoyarsk radar

Obligation: To preclude the development of a territorial defense or providing the base for a territorial ABM defense, the ABM Treaty provides that radars for early warning of ballistic missile attack may be deployed only at locations along the periphery of the national territory of each Party and that they be oriented outward. The Treaty permits deployment (without regard to location or orientation) of large phased-array radars for purposes of tracking objects in outer space or for use as national technical means of verification of compliance with arms control agreements.

Issue: The March 1987 Report examined the issue of whether the Krasnoyarsk radar meets the provisions of the ABM Treaty governing phased-array radars. We have reexamined this issue.

Findings: The U.S. Government reaffirms the conclusion in the March 1987 Report that the new large phased-array radar under construction at Krasnoyarsk constitutes a violation of legal obligations under the Anti-Ballistic Missile Treaty of 1972 in that in its associated siting, orientation, and capability, it is prohibited by this Treaty. Construction continued in 1987. The absence of credible alternative explanations have reinforced our assessment of its purpose. Despite U.S. requests, no corrective action has been taken. This and other ABM-related activities suggest that the USSR may be preparing an ABM defense of its national territory.

2. Mobility of ABM system components

Obligation: Paragraph 1 of Article V of the ABM Treaty prohibits the development,

testing, or deployment of mobile land-based ABM systems or components.

Issue: The March 1987 Report examined whether the Soviet Union has developed a mobile land-based ABM system, or components for such a system, in violation of its legal obligation under the ABM Treaty. We have reexamined this issue and considered the impact of the Soviet actions at Gomel.

Finding: The U.S. Government reaffirms the judgment of the March 1987 Report that the evidence on Soviet actions with respect to ABM component mobility is ambiguous, but that the USSR's development and testing of components of an ABM system, which apparently are designed to be deployable at sites requiring relatively limited special-purpose site preparation, represent a potential violation of its legal obligation under the ABM Treaty. The recent movement of parts of a Flat Twin and Pawn Shop reinforces our concerns about ABM system component mobility. This and other ABM-related Soviet activities suggests that the USSR may be preparing an ABM defense of its national territory.

3. Concurrent testing of ABM and air defense components

Obligation: The ABM Treaty and its Protocol limit the Parties to one ABM deployment area. In addition to the ABM systems and components at that one deployment area, the Parties may have ABM systems and components for development and testing purposes so long as they are located at agreed test ranges. The Treaty also prohibits giving components, other than ABM system components, the capability "to counter strategic ballistic missiles or their elements in flight trajectory" and prohibits the Parties from testing them "in an ABM mode." The Parties agreed that the concurrent testing of SAM and ABM system components is prohibited.

Issue: The March 1987 Report examined whether the Soviet Union has concurrently tested SAM and ABM system components in violation of its legal obligation since 1978 not to do so. It was the purpose of that obligation to further constrain testing of air defense systems in an ABM mode. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment made in the March 1987 Report that the evidence of Soviet actions with respect to concurrent operations is insufficient fully to assess compliance with Soviet obligations under the ABM Treaty. However, the Soviet Union has conducted tests that have involved air defense radars in ABM-related activities. The large number, and consistency over time, of incidents of concurrent operation of ABM and SAM components, plus Soviet failure to accommodate fully U.S. concerns, indicate the USSR probably has violated the prohibition on testing SAM components in an ABM mode. In several cases this may be highly probable. This and other ABM-related activities suggest the USSR may be preparing an ABM defense of its national territory.

4. ABM capability of modern SAM systems

Obligation: Under subparagraph (a) of Article VI of the ABM Treaty, each party undertakes not to give non-ABM interceptor missiles, launchers, or radars "capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode . . ."

Issue: The March 1987 Report examined whether the Soviet Union has tested a SAM system or component in an ABM mode or given it the capability to counter strategic ballistic missiles or their elements in flight trajectory in violation of their legal obligation under the ABM Treaty. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment made in the March 1987 Report that the evidence of Soviet actions with respect to SAM upgrade is insufficient to assess compliance with the Soviet Union's obligations under the ABM Treaty. However, this and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

5. Rapid reload of ABM launchers

Obligation: The ABM Treaty limits to 100 the number of deployed ABM interceptor launchers and deployed interceptor missiles at launch sites. It does not limit the number of interceptor missiles that can be built and stockpiled. Paragraph 2, Article V, of the Treaty prohibits the development, testing or deployment of "automatic or semi-automatic or other similar systems for rapid reload" of the permitted launchers.

Issue: The March 1987 Report examined whether the Soviet Union has developed, tested or deployed automatic, semi-automatic, or other similar systems for rapid reload of ABM launchers in violation of its legal obligations under the ABM Treaty. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment made in the March 1987 Report that, on the basis of the evidence available, the USSR's actions with respect to the rapid reload of ABM launchers constitute an ambiguous situation as concerns its legal obligations under the ABM Treaty not to develop systems for rapid reload. The Soviet Union's reload capabilities are a serious concern. These and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

6. ABM components at Gomel

Obligations: To preclude the deployment of a territorial defense or providing the base for a territorial defense, the ABM Treaty provides that ABM components cannot be deployed outside of the one permitted ABM system deployment area or designated ABM test ranges for any purpose.

Issue: In March 1987, the U.S. Government observed the appearance of major parts of the original Flat Twin radar, including all of the modular sections of the radar body, and a Pawn Shop van at an electronics plant in Gomel, about 550 kilometers southwest of Moscow. The timing of the arrival of parts of the Flat Twin and Pawn Shop indicates that they came from the radars that were removed from the Sary Shagan Missile Test Center where, by January 1987, the Soviets were observed disassembling a number of these ABM components. U.S. concern regarding the issue of mobile ABM components previously raised with the Soviets could be exacerbated by this Soviet action.

Finding: The U.S. Government finds that the USSR's activities with respect to moving a Flat Twin ABM radar and a Pawn Shop van, a component of an ABM system, from a test range and initiating deployment at a location outside of an ABM deployment area or ABM test range constitutes a violation of the ABM Treaty. While it is not likely that the actions at Gomel are to support an ABM defense at that locality, deployment of such radars at Gomel to carry out any function is inconsistent with ABM Treaty obligations. This and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

7. ABM territorial defense

Obligation: The ABM Treaty and Protocol allow each Party a single deployment area, explicitly permit modernization and replacement of ABM systems or their components, and explicitly recognize the existence of ABM test ranges for the development and testing of ABM components. The ABM Treaty prohibits, however, the deployment of an ABM system for defense of the national territory of the Parties and prohibits the Parties from providing a base for such a defense.

Issue: The March 1987 Report examined whether the Soviets have deployed an ABM system for the defense of their territory or provided a base for such a defense. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment of the March 1987 Report that the aggregate of the Soviet Union's ABM and ABM-related actions (e.g., radar construction, concurrent testing, SAM upgrade, ABM rapid reload, ABM mobility and deployment of ABM components to Gomel) suggests that the USSR may be preparing an ABM defense of its national territory.

Biological weapons convention and 1925 Geneva protocol

Chemical, Biological and Toxin Weapons

Treaty status

The 1972 Biological and Toxin Weapons Convention (BWC) and the 1925 Geneva Protocol are multilateral treaties to which both the United States and the Soviet Union are Parties. Soviet action not in accord with these treaties and customary international law relating to the 1925 Geneva Protocol are violations of legal obligations.

Obligation: The BWC bans the development, production, stockpiling or possession, and transfer of microbial or other biological toxins except for a small quantity for prophylactic, protective or other peaceful purposes. It imposes the same obligations in relation to weapons, equipment and means of delivery of agents or toxins. The 1925 Geneva Protocol and related rules of customary international law prohibit the use in war of asphyxiating, poisonous or other gases and of all analogous liquids, materials, or devices and prohibits use of bacteriological methods of warfare.

Issue: The March 1987 Report examined whether the Soviets are in violation of provisions that ban the development, production, transfer, possession, and use of biological and toxin weapons and whether they have been responsible for the use of lethal chemicals. We have reexamined this issue.

Finding: The U.S. Government judges that continued activity during 1987 at suspect biological and toxin weapon facilities in the Soviet Union, and reports that a Soviet BW program may now include investigation of new classes of BW agents, confirm the conclusion of the March 1987 Report that the Soviet Union has maintained an offensive biological warfare program and capability in violation of its legal obligation under the Biological and Toxin Weapons Convention of 1972.

There have been no confirmed attacks with lethal chemical or toxins in Cambodia, Laos, or Afghanistan in 1987 according to our strict standards of evidence. Nonetheless, there is no basis for amending the March 1987 conclusion that, prior to this

time, the Soviet Union has been involved in the production, transfer, and use of trichothecene mycotoxins for hostile purposes in Laos, Cambodia, and Afghanistan in violation of its legal obligation under international law as codified in the Geneva Protocol of 1925 and the Biological and Toxin Weapons Convention of 1972.

Limited Test Ban Treaty

Underground Nuclear Test Venting

Treaty status

The Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Limited Test Ban Treaty) (LTBT) is a multilateral treaty that entered into force for the United States and the Soviet Union in 1963. Soviet actions not in accord with this treaty are violations of a legal obligation.

Obligation: The LTBT specifically prohibits nuclear explosions in the atmosphere, in outer space, and under water. It also prohibits nuclear explosions in any other environment "If such explosions cause radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted."

Issue: The March 1987 Report examined whether the USSR's underground nuclear tests have caused radioactive debris to be present outside of its territorial limits. We have reexamined this issue including evidence obtained since the Soviets resumed nuclear underground testing in February 1987.

Finding: the U.S. Government reaffirms the judgment made in the March 1987 Report that the Soviet Union's underground nuclear test practices resulted in the venting of radioactive matter on numerous occassions and caused radioactive matter to be present outside the Soviet Union's territorial limits in violation of its legal obligation under the Limited Test Ban Treaty. The Soviet Union failed to take the precautions necessary to minimize the contamination of man's environment by radioactive substances despite numerous U.S. demarches and requests for corrective action. This practice has continued. Since the resumption of Soviet undergound testing in February 1987 the United States has presented demarches to the Soviet Union on two separate occasions when unambiguosly attributable venting has occurred.

BOSTON HERALD CONTEST—MASSACHUSETTS CHILDREN WRITE TO GORBACHEV

Mr. KENNEDY. Mr. President, in connection with the historic United States-Soviet summit in Washington this week, I had the privilege today of delivering to Soviet officials 12 prize-winning letters written by children in Massachusetts to General Secretary Gorbachev of the Soviet Union. The letters were submitted to the Boston Herald as part of a contest sponsored by the newspaper, and the Herald judges picked the prize winners from among 515 entries in three age categories.

I commend the Boston Herald for this worthwhile initiative, and I hope that General Secretary Gorbachev will take the opportunity to read all of these letters, for they eloquently express the hopes for peace and good relations between our two nations.

These hopes are widely shared by Americans of all ages, and I am sure they are shared equally by the vast majority of Soviet citizens. Most of all, it is the children in both our nations and throughout the world who will be the principal beneficiaries of our efforts this week and of our continuing progress to prevent nuclear war and promote international peace. And they will also be the principal victims, if we fail.

I believe that my colleagues in the Senate will find these prize-winning letters of special interest, and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TWELVE TO FOURTEEN YEAR OLDS

FIRST PRIZE: PETER COLWELL, 12, EAST BOSTON

I feel the warmth of the earth rising. I feel that peace, harmony and brotherhood are nearer than ever thought possible, when I realize that you, an honorable leader of the powerful Union of Soviet Socialist Republics, and President Reagan, a respected commander of the United States of America, will meet for the purpose of nuclear disarmament agreements.

In the hands of two fine leaders lies a vital decision, and I feel it is just a breath away! Please make the lives of millions of this world's citizens safer, more peaceful, as a result of your visit.

SECOND PRIZE: ERIC CHESNAKAS, 13, CAMBRIDGE

I am writing to you for a very important reason, world peace. I believe that if we all work together we can achieve this most precious goal. If we don't work together, then we can die together.

The one thing that scares me the most is having another war. I'd hate to die just because nations can't get along with each other. God made the Earth for everyone. One nation shouldn't try to rule the whole world. We shouldn't have to kill each other to solve a problem. I hope you and President Reagan accomplish many things when you two meet.

THIRD PRIZE: MINDY PEIRCE, 12, WAYLAND

I am a 12-year-old girl living in Wayland, Mass., and am writing you this letter to tell you my feelings about the children of the future. I din't really ever think about it before until recently. My parents were away and all of a sudden I thought of myself as an adult. I was a little nervous because I could imagine our earth as being totally polluted and everyone enemies. It was a terrible thought and I hope it won't become true. I wish that the Soviet Union and the United States would be friends and work together in things because both of our continents have a great deal of knowledge and together we could find out things that we never knew before.

FOURTH PRIZE: JOSEPH JUPIN, 12, NEW BEDFORD

Allow me to introduce myself. My name is Joe Jupin and I am 12 years of age. I would like to talk to you about the relationship between the U.S.A. and the U.S.S.R. I don't think you really want to go to war. So do something about it. Just think if our two countries were united we could break up all wars in the world and there could be world peace. And who cares who's the toughest country. And no matter what you ever do I will always remain your friend. Please write back.

P.S. Just remember, nobody wins a war.

NINE TO ELEVEN YEAR OLDS

FIRST PRIZE: MISS BEVIN MURPHY, 9, MILFORD

I think we should have peace all throughout the land from America's lakes to Russia's lakes to Russia's sand.

Peace talks are good, but that's all they are.

To succeed in our goal we must reach out far.

The only thing dividing us is the Atlantic sea.

I think we should unite and answer the people's plea.

SECOND PRIZE: JULIA HUYEN TRAN, 11, SHARON

As you visit the United States of America, I want to write to you about freedom and openness.

I congratulate you for your policy of 'glastnost' or openness. But, freedom and openness always go together. Where there is freedom there comes openness. My country becomes great because it is free and open. The Constitution guarantees us with all basic freedom, and the United States government is open to its people. If you are truly for 'glastnost,' then let freedom become a part of your country and in other countries that are influenced by the Soviet Union.

THIRD PRIZE: KELLY BRUNO, 10, WINTHROP

Please keep trying to keep peace. I know that it's hard and you must get tired, but please don't stop trying. Fighting comes too easy to people. Fighting is never the answer to anything. It leads too easily to war and it frightens me. I have a baby brother. He's five months old. His name is Dennis and he's beautiful. The last thing I want him to grow up to see or be in is a war. I know that wars can come unexpectedly, but please keep trying to keep the peace with Americans like me. Thank you for listening.

FOURTH PRIZE: JAMES T. KALIL, 11, LAWRENCE

We are learning Russian history in our sixth grade. Your history to survive is a lot like our fight and start in America.

I never knew we fought together in the first and second (World) wars. When I read this I said to myself, 'Why am I supposed to fear you and you me?" The history books don't teach fear of each other. Who does?

I would like to exchange sixth grade history textbooks to see what you tell your children about us. Maybe if we can see how adults tell us to see each other, it would explain a lot of things.

SIX TO EIGHT YEAR OLDS

FIRST PRIZE: CHRISTOPHER A. GREEN, 7, BROCKTON

Christmas is almost here. I think it would be a great idea if while Santa is bringing presents he takes some of the bad things away with him, like guns and bombs. When I have a fight with my friends we talk about it. I don't want them to die because they don't want to do what I want them to do. What do you think? You still have time to write Santa a letter. My mom is a mail man. If you like she could get it to Santa for you quickly.

SECOND PRIZE: JENNIE MILLS, 8, BEDFORD

I hope someday our countries can be friends. A war is like a fight I had with my friend Heather. She said twice she would play with me at recess. But she never did. So a few of my friends and I got together

and wrote notes. Mean ones! Then one day I saw her with her head down waiting for the bus. I went over to her and said I was sorry. She did not believe me. So I had to write more notes, nice ones this time. Now we are friends again.

THIRD PRIZE: RICHIE NICOLO, 7, REVERE

I am glad you are coming to my country. President Reagan is a nice man. We learn about peace in school. How about giving it a chance? I know it's hard and I've learned about missiles and stuff. Will I go to the war when I grow up? I don't want to leave my mother. I like you Mr. Gorbachev. My father's head looks like yours. Maybe someday I'll come to Russia. Someday to see the kids. Do you have video games?

FOURTH PRIZE: BETSY BARRETT, 6, EVERETT

People should not have bombs because they can kill. Killing is not very nice. Everyone should be able to do what they want to do. Everybody is good enough to be free. People should be free because they have their own lives and their own fun. Everyone should be friendly with each other, meet each other in every state because if they meet each other as friends, they will become good friends. They should get rid of all this war stuff. Think up a good plan to free all the world and talk to each other.

THE MARKET CRASH IN PERSPECTIVE

Mr. HATCH. Mr. President, one of the most frequently asked questions in Washington today is "Does the stock market drop mean that we need new economic policies?" My own answer is: New economic policies—yes. New gimmicks—No! Responsible policymakers must avoid the temptation to find short run, quick legislative or administrative solutions that fail to correct our longstanding problems.

While the complexity of the market makes any analysis tentative and incomplete, I believe it is safe to suggest that the stock market crash in October reflected a very real loss of trader confidence in the American economy. I would also argue that the crisis in confidence was sparked by recent and ill-conceived attempts by the Federal Government to supress—but not address—our major problems: the U.S. international trade deficit and the Federal budget deficit. A third longstanding problem, in the opinion of many, has been U.S. monetary policy and its effect on interest rates.

First, let's look at the trade deficit. The U.S. current account deficit, the disproportionately large amount of imports relative to exports, is the overconsumption of foreign goods financed by the surplus in the capital account. In other words, we are borrowing overseas for our domestic investment, while we consume, rather than save, at home. A strong economy and a strong nation have made the United States attractive to foreign investors, and this investment from overseas has "financed" our overconsumption. The prospect of foreign ownership and a large debt to other nations has, for years, left analysts less than sanguine.

The Federal budget deficit is a similar problem. It would be fair to say that a great deal of the excessive consumption is the result of Federal fiscal policy which promises instant gratification at the expense of saving, investment, work, invention, innovation, and risktaking. There is a tendency in Congress to overpromise benefits and downplay the effort required to produce these benefits. We subsidize business that is not economically viable, substitute inefficient Government programs for the more efficient private efforts, and heavily tax productive investment efforts to pay for these programs.

A third longstanding problem of policy has been the monetary strategy of the Federal Reserve System. Our national monetary policy has never been the source of much stability for the economy, and recent years have not seen much improvement. Traditionally, the Fed has periodically increased the money supply in order to stimulate the economy artificially. The regrettable outcome of this maneuver, Mr. President, is something like a heroin "Fix." It does not last long, and larger doses are required to keep the "high" going.

When inflation results, the Fed then slows the money supply growth rate, and the painful "withdrawal" of recession squeezes inflation out of the economy. This was the monetary pattern from 1975 until 1982. Subsequently the Fed maintained excessively high money growth rates until this past summer when they began to fear the advent of another inflationary surge.

Meanwhile, another significantly gloomy index appeared on the mental horizon; a new projection of the Federal budget deficit. The Congressional Budget Office, in the late summer of 1986, had estimated the total budget deficit for fiscal years 1987, 1988, and 1989 at $461 billion. This fall, the figure climbed to $533 billion. The $72 billion increase was due mostly to new Federal spending. Despite all of the congressional talk about Gramm-Rudman discipline, the deficit picture was, indeed, getting worse.

This, then, was the volatile setting for the October crisis in confidence. It only remains to combine a longstanding weakness with some immediate poor decision or bad news to push us off a cliff.

There were two follies this fall that moved confidence closer to the precipice, Mr. President:

First, Congress was about to address the account deficit with some very damaging gimmickry—on the order of the Gephardt amendment. Part of the House version of the trade bill, Gephardt would impose sanctions on any country that has an excessive trade deficit with the United States. Hardly good news for international trade, such a protectionist measure would surely lead first to retaliation, and then to recession.

Second, the Federal Reserve, fearing an inflationary surge, reduced the monetary growth rate this fall, and created another reason to believe that a recession was not far behind.

Just exactly what technicality finally triggered the spiral may never be known. Such crisis always spawn questions like, "Why today? Why not yesterday?" But our preoccupation with this question is maddeningly shortsighted. A spiral is a spiral, and just because the deficits have been around for some time, doesn't allow us to ignore them as causal while we question the mechanics of the fall. Did we have our umbrella at cliff edge? Was there a loose pebble? We must look at our proximity to the cliff and the problems that brought us there. After all, any number of events could break our foothold again.

The recent budget summit agreement has had little impact on the market, no doubt being discounted as the weak response that it is.

Washington, instead of making the hard decisions, has chosen to investigate the flaws in the stock market. No fewer than 14 studies have been launched to date—some from the White House, some from Congress—to analyze why the market responded to the force of gravity.

The real answer is all too clear and far less glamorous. We must back away from the precipice. We must bring Federal spending under control, and we must encourage domestic saving and investment. We also need to institute a stable monetary policy.

Only with these goals can we expect to put the American economy on a solid footing. The responsible course for legislators to take is one that looks at the long-term welfare of the country, and not at the short-term need to get re-elected. Wall Street merely reflects our vulnerability. It carries the message of our weaknesses.

Mr. President, do I think we will overcome our shortsightedness? I must say, not soon. I am not optimistic—not as long as Washington continues to respond by just "shooting the messenger."

THE REMARKABLE CROMMELIN FAMILY—A CREDIT TO ALABAMA AND THE NATION

Mr. HELMS. Mr. President, a friend in Alabama, Will Hill Tankersley, has sent me a story published a few weeks back in the Alabama Journal about the father of one of my fine associates on the staff of the Senate Foreign Relations Committee. I would probably have never read the story had it not been for Mr. Tankersley because Quentin Crommelin, Jr., is too modest to bring it to my attention.

The senior Quentin Crommelin, now a 68-year-old retired Navy Captain, had a distinguished career in the Navy, including service as commanding officer of the aircraft carrier, U.S.S. *Lexington*.

I believe Senators will enjoy reading about the service and sacrifices made by the Crommelin family. Therefore, Mr. President, I ask unanimous consent that the aforementioned article published by the Alabama Journal, written by Anderson Scott, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Alabama Journal, Nov. 2, 1987]

COAT STAND IS METAPHOR FOR CAPTAIN'S LONG CAREER

(By Anderson Scott)

Needless to say, it is unusual for a coat stand to serve as a metaphor for a man.

But the metaphor is apt. The stand is an ornately carved affair, with wooden duck's heads arching out to hold a variety of hats and overcoats, the slightly rough wardrobe of a gentleman farmer. Slung off the rack as casually as the coats is an AK-47 assault rifle, with a large bayonet fixed to the barrel.

The stand belongs to 68-year-old Captain Quentin Crommelin. Until 1970, he served in the Navy in a variety of duties, including commanding the aircraft carrier Lexington and flying against the Japanese in World War II.

Two of his brothers were killed in the war. The two brothers who survived both attained the rank of admiral.

Currently on patrol in the Persian Gulf is the guided-missile frigate The Crommelin, named after his brothers killed in the war, Charles and Richard, and his late brother Admiral Henry Crommelin.

Quentin Crommelin remembers with special fondness brother Charles, 10 years his senior.

"He was a fighter pilot and a test pilot. He was a wonderful man.

"He was testing a plane built by Curtis that was a dog. The plane had killed the previous two test pilots who had flown it, and when Charles got it, the engine quit and Charles crashed. The crash broke his legs and almost tore off one of his arms. When I saw him after the crash, he was in traction, smoking a cigar and talking to my old man as though nothing had happened."

Charles recovered and went into combat against the Japanese as the oldest air group commander in the war.

He was seriously injured again when he attacked a Japanese installation singlehandedly, without waiting for re-enforcements.

"The enemy put 243 holes in him as he was diving towards them. He managed to pull out of the dive and make it back to the carrier, even though the plane was all shot up. They pulled him out of the plane had shipped him to the hospital in Pearl Harbor."

When he got to Pearl Harbor, he was loaded in an ambulance for the final leg of the trip to the hospital.

"Charles made the ambulance go to the bar where he knew his squad would be drinking, had a drink with them, and then headed on to the hospital. Of course, the doctor chewed him out. But Charles told the doctor that he wanted the kids to know that it's not so bad to be shot."

Charles, when healed, again went into combat, despite a loss of peripheral vision as a result of his wounds.

In a cruel irony, Charles was killed on a reconnaissance mission when another American plane hit his.

Brother Richard fought in the Battle of the Coral Sea and was shot down in the Battle of Midway. He was rescued from the ocean, and continued to fly. He was killed over Tokyo.

Crommelin is modest about his own role in the war. "I'm not a combat hero. I tried my best, but I never had much to shoot at."

And about the special qualities needed to fight, Crommelin is equally unassuming.

"You have qualms in a tight situation, but you try to do your job and get out alive. Mostly you don't want to look bad in the eyes of your friends. Esprit de corps is the greatest courage-maker.

"Young men have the feeling of I'm going to live forever and it's not going to happen to me. It makes for great soldiers . . . If we get in a war—God forbid—the young men would come out of the hills and forests to defend the country, the way they always have."

Although his duties with the Navy were varied and distinguished, Crommelin said that he remembered with the most fondness his days as squadron commander in the 1940s. Crommelin said squadron commanders got to fly—a job he sorely missed as he moved up the ranks—and were "close to the kids."

As an air group commander in the 1950s, Crommelin helped preside over the introduction of jets onto aircraft carriers. "The group commander flies all the planes in his group, and we had jets and prop planes. Jets and props have different landing techniques. Well, I had been flying props all day and switched over to a jet in the afternoon."

As he flew the jet in for a landing, Crommelin cut his throttle, correct for a prop plane but wrong for a jet. In a fluke accident, the jet missed the cables on the carrier deck which were meant to snare it. Crommelin found himself running off the end of the deck, with no power in his engines.

The plane rolled over in mid-air, but before it hit water the engines caught and Crommelin managed to straighten out and come around again for a landing.

"The boys on the deck said they were composing telegrams to my next-of-kin," Crommelin laughed.

Since retiring from the Navy in 1970, Crommelin has cattle-farmed on his family's ancestral plantation on the banks of the Coosa River near Wetumpka. Visitors to Fort Toulouse see his house, a pink and white stucco Italinate mansion, far off the road.

Crommelin has a long lineage of Montgomery notables. His great-uncle John Crommelin and two of his cousins, Gaston Gunter and Will Gunter, were mayors.

Crommelin grew up with his four brothers and three sisters in a house which stood on the corner of Hull Street and Columbus Street, now Kiwanis Park.

Crommelin's brother John currently lives on another part of the plantation.

Crommelin married his wife, Pricilla, in 1943. Pricilla was a ballet dancer, and of late has garnered acclaim as one of the region's best painters.

Crommelin has two children. Daughter Pricilla Crommelin-Monnier is married to a French native and lives in Paris. She was the lead dancer with the Harkness ballet company and currently runs a ballet school.

Son Quentin Jr. is a combat veteran of the Vietnam War. He now serves as chief minority council to the Senate Foreign Relations Committee. Quentin Jr. played a role in the recent Iran-Contra hearings, advising Republican senators on various points of law.

At the end of a two-hour interview Crommelin was asked if the gun on the coat stand was a prop.

He laughed. "No, it works. It makes trespassers polite."

THE 1,000TH DAY OF CAPTIVITY OF TERRY ANDERSON

Mr. LEAHY. Mr. President, today, December 10, marks the 1,000th day of captivity for Terry Anderson. Mr. Anderson, an Associated Press reporter, is the senior member of the group of Americans who are hostages in Lebanon.

During those 1,000 days, Mr. Anderson's father, Glenn Anderson, Sr., and his brother, Rich, have both died of cancer. So far as we know, Mr. Anderson is not aware of their deaths. His daughter was born and has learned to walk and talk without him. The days of his captivity have turned into weeks, the weeks into months, the months into years.

We all remember how Ronald Reagan, after making the American hostages in Iran an issue of the 1980 campaign, took his oath of office on the day of their release. Those Americans spent less than half the time in captivity that Terry Anderson has, with no end in sight.

During the past year, this administration has been preoccupied with controlling political damage from the Iran-Contra scandal. That foreign policy disaster resulted in no reduction in the number of American hostages. There are now eight, and there is no sign of progress toward their release. In fact there is no evidence that anything is happening to give us hope for their release.

This terrible and tragic situation is, in large part, a direct and predictable result of our current Middle East policy, or perhaps I should say nonpolicy. In 7 years we have seen our role in that region dissolve. We have gone from being the brokers of an historic peace treaty between Egypt and Israel to the superpower that had no choice but to retreat from a senseless policy of military intervention in Lebanon.

There is no better incentive for the United States to regain a meaningful diplomatic role in the Middle East than the release of the American hostages. It is time for a new effort to free these men, not with cakes, a Bible, missiles, and promises to the ayatollahs of Iran, but with credible, diplomatic overtures conducted at the highest levels in governments which can affect the situation. I mean especially Syria, which retains good relations with Iran and is the paramount

power in Beirut and northern Lebanon, including the Bekaa Valley.

I urge the administration not to forget Terry Anderson and the other seven American citizens. As important as the INF Treaty is, and further steps toward nuclear arms control, as diverting as the Presidential election year will be, as preoccupied as a lame duck administration always is, we must not forget that eight Americans are being held in daily danger by fanatics and terrorists.

I recently received a letter from Peggy Say, Terry Anderson's sister. I am sure she has written to other Members of Congress too, urging a new commitment to bring the hostages home. I share her sense of urgency, and call on Secretary of State Shultz to give this his highest priority. God forbid that we should have to wait for the inauguration of our next President before we see these men again.

TRIBUTE TO RICHARD NARKEWICZ AS PRESIDENT OF THE AMERICAN ACADEMY OF PEDIATRICS

Mr. LEAHY. Mr. President, it is with great pride that I rise today to commend Dr. Richard Narkewicz for being appointed the president of the Academy of Pediatrics on November 3, 1987. Dr. Narkewicz, a fellow Vermonter and a dear friend, has a distinguished academic and professional history. He graduated with honors from St. Michaels College of Vermont and the University of Vermont Medical College. In continuation of his academic career, Dr. Narkewicz has been an able clinical professor of pediatrics at the University of Vermont from 1966 until the present time.

Dr. Narkewicz has an equally impressive professional background. Dr. Narkewicz was a captain in the U.S. Air Force where, from 1963 to 1966, he was chief of pediatrics and professional services at Griffiths Air Force Base in New York. And since 1966, Dr. Narkewicz has maintained a thriving private pediatric's practice in South Burlington, VT.

It is a great honor to be elected president of the American Academy of Pediatrics. The American Academy of Pediatrics has more than 33,000 members in the United States, Canada, and Latin America. The academy is dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults. They establish sound effective policies on a broad range of issues to ensure a healthier future for our children.

Mr. President, I am very proud that a Vermonter is now the President of the American Academy of Pediatrics. With his strong academic and professional background and his active commitment to the world's children, I am confident that Dr. Narkewicz will be an outstanding leader for the academy. As a friend and as a colleague, I look forward to working with Dr. Narkewicz to improve the health and welfare of all children.

MESSAGES FROM THE HOUSE

At 10:25 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 649. An act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327).

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of titles I, II, and IV of the House bill, and the entire Senate amendment (except for sections 14, 14A, 14B, 14C, 19, 20, and 25), and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. STARK, Mr. DONNELLY, Mr. DUNCAN, and Mr. GRADISON.

From the Committee on Energy and Commerce, for consideration of titles II, III, and IV of the House bill, and the Senate amendment (except for sections 2, 3, 12, and 18(a)), and for section 6 of the Senate amendment insofar as consideration of such section entails changes in eligibility requirements to participate in part B of the Medicare Program, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. WYDEN, Mr. LENT, and Mr. MADIGAN, except that, for consideration of section 204 of the House bill and section 7 of the Senate amendment, Mr. BILIRAKIS is appointed, vice Mr. MADIGAN.

Appointed as additional conferees from the Committee on Education and Labor, for consideration of section 21 of the Senate amendment, and modifications committed to conference: Mr. HAWKINS, Mr. CLAY, and Mr. JEFFORDS.

The message further announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 2689) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes, with an amendment, in which it requests the concurrence of the Senate; and that the House disagrees to the amendment of the Senate to the title of the bill.

ENROLLED BILLS SIGNED

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 649. An act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327); and

H.R. 3319. An Act for the relief of Susan A. Sampeck.

The enrolled bills were subsequently signed by the President pro tempore [Mr. STENNIS].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2269. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the status of the Department of Agriculture's efforts to carry out a pilot barter program under Section 416(d) of the Agricultural Act of 1949, as amended by Section 1129 of the Food Security Act of 1985 (Section 416(d)); to the Committee on Agriculture, Nutrition and Forestry.

EC-2270. A communication from the Director, Office of Management and Budget, transmitting, pursuant to law, a report on the reapportionment of certain appropriated funds for Radio Free Europe/Radio Liberty Inc.; to the Committee on Appropriations.

EC-2271. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a draft of proposed legislation to amend the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

EC-2272. A communication from the Director of the National Park Service, Department of the Interior, transmitting, pursuant to law, a report of the National Park Service on the second Federal Lands Cleanup Day; to the Committee on Energy and Natural Resources.

EC-2273. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2274. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2275. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2276. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report

regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2277. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2278. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-2279. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "DEFRA Report to Congress on Pacemaker Surgeries;" to the Committee on Finance.

EC-2280. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, U.S. Department of Agriculture; to the Committee on Governmental Affairs.

EC-2281. A communication from the Deputy Assistant to the President and Director, Office of Administration, transmitting, pursuant to law, a report concerning personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development (Domestic Policy Staff), and the Office of Administration; to the Committee on Governmental Affairs.

EC-2282. A communication from the Secretary of Defense, transmitting, pursuant to law, the Semiannual Report on Audit, Inspection, and Investigative Operation in the Department of Defense which covers the 6-month period ending September 30, 1987; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-361. A joint resolution adopted by the Second Olbiil Era Kelulau; to the Committee on Appropriations.

"S.J. RES. No. 2-114

"Whereas, on the 2nd day of April, 1947 the United Nations Security Council unanimously approved the Trusteeship Agreement for the former Japanese mandated islands and said Trusteeship Agreement was further approved by the Congress of the United States on the 18th day of July, 1947; and

"Whereas, said Trusteeship Agreement, pursuant to Article 76(b) of the United Nations Charter, set forth under Article 6 requirements that the United States as administering authority promote the economic advancement and self sufficiency of the inhabitants and protect the rights and fundamental freedoms of all elements of the population without discrimination; and

"Whereas, by virtue of the Covenant between the United States of America and the people of the Commonwealth of the Northern Mariana Islands certain provisions of United States civil rights laws became applicable to said Commonwealth on January 9, 1978; and

"Whereas, after that date the Trust Territory Government which was established by the administering authority employed various Micronesians within the Commonwealth; and

"Whereas, the Trust Territory Government, during and after January 9, 1978, established and maintained three separate pay scales for Micronesians, Third Country Nationals and Americans or persons of European stock; and

"Whereas, said pay scales provided that Micronesians would earn approximately one half of their American or European counterparts although having the same qualifications, being employed in the same job and doing the same work; and

"Whereas, certain Micronesians who were so employed maintained a legal action in the United States District Court for the Northern Mariana Islands, styled *Temengil, et al.*, v. *Government of the Trust Territory, et al.*, (DCNMI Civil Action No. 81-0006), which was brought to stop such discriminatory practices and obtain damages based upon the discrepancy in pay set forth above; and

"Whereas, the Government of the Trust Territory and the United States have admitted during the course of these proceedings that the difference in pay as set forth in said pay scales was done intentionally and purposefully; and

"Whereas, the United States District Court has entered its judgment finding facial discrimination existed against plaintiffs in the practices of the Trust Territory Government and has entered an award in excess of $20,000,000.00; and

"Whereas, said lawsuit has been certified as a class action and now covers in excess of Nine Hundred Micronesians throughout Micronesia of whom many are citizens of the Republic of Palau; and

"Whereas, defendant Trust Territory and United States have evidenced their intention to appeal the award of the United States District Court, which will further extend litigation for another two years, aggravating the negative feelings and adding to the costs; and

"Whereas, said appeal will be based upon procedural and jurisdictional matters, none of which may apply to the Trust Territory Government in the future, since the United States will no longer be administering the Trust Territory and will have effectively dismantled the Government, thus making the appeal an exercise for lawyers; and

"Whereas, the Trust Territory Government and the United States Government have conceded and stipulated to their conduct and thus the ethical and moral correctness of the District Court's decision cannot be doubted; and

"Whereas, the appropriation by the United States Congress of sufficient funds to satisfy the judgment in this case and other expeditious action to fairly and finally resolve this matter would allow the Trust Territory to be concluded on a harmonious note and be a benevolent gesture towards the new Micronesian nations which have entered into close and mutually beneficial alliances with the United States: Now, therefore, be it

"Resolved by the Senate of the Second Olbiil Era Kelulau, Twelfth Regular Session, 1987 (the House of Delegates concurring), the United States Congress is hereby requested to appropriate sufficient funds to satisfy the judgement of the District Court of the Northern Marianas in Civil Action No. 81-0006; and be it further

"Resolved, That the President of the United States, the President of the Senate and Majority Leader of the Senate and the Speaker of the House are hereby requested to assist in the fair and expeditious resolution of this matter; and be it further

"Resolved, That certified copies of this joint resolution be transmitted to the President of the United States, to the Presiding Officers of the United States Senate, to the Speaker of the United States House of Representatives, to the United States Secretary of the Interior, to the President of the Republic of Palau, to the President of the Senate and the Speaker of the House of Delegates of the Second Olbiil Era Kelulau, to Chairman Ron de Lugo of the Subcommittee on Insular and International Affairs of the United States House of Representatives, to the President of the Federated States of Micronesia, to the Speaker of the Congress of the Federated States of Micronesia, to the Governor of the Commonwealth of the Northern Mariana Islands, to the Speaker of the Commonwealth of the Northern Mariana Islands House of Representatives, to the President of the Senate of the Commonwealth of the Northern Mariana Islands, to the President of the Republic of the Marshall Islands, and to the Speaker of the Republic of the Marshall Islands Nitijella."

POM-362. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Commerce, Science, and Transportation:

"RESOLUTION

"We, your Memorialists, the Senate and the House of Representatives of the State of Maine in the Second Special Session of the 113th Legislature, now assembled, most respectfully present and petition the Congress of the United States, as follows:

"Whereas, the Maine Legislature enacted 1985 Public Law, chapter 813, which established the Legislative Task Force on Railroads and charged the task force with identifying the most effective role for the State in retaining and enhancing rail transportation in Maine; and

"Whereas, the Legislative Task Force on Railroads has learned that the Federal Rail Administration has chosen to eliminate their Bangor, Maine Office and move their only Maine-based track inspector to their regional office, in Cambridge, Massachusetts; and

"Whereas, during the deliberations of the task force it was found that there are no rules or regulations enforceable by any state or federal agency that establish basic standards of sanitation on rolling stock in which railroad employees work; and

"Whereas, the Congress of the United States is currently considering proposed amendments to the Railroad Safety Act of 1970; now, therefore, be it

"Resolved, That We, your Memorialists, do hereby respectfully urge and request the Congress of the United States to vote to reinstate the Bangor, Maine Office of the Federal Rail Administration, to staff this office with motive power and equipment and hazardous-material experienced personnel in addition to the current track inspector, and to improve railroad occupational safety and health conditions; and be it further

"Resolved, That a duly authenticated copy of this resolution be immediately submitted by the Secretary of State to the Honorable Ronald W. Reagan, President of the United

States, the Honorable George Bush, President of the Senate, and the Honorable Jim Wright, Speaker of the House of Representatives of the Congress of the United States, and to the members of the United States Senate and the United States House of Representatives from the State of Maine."

POM-363. A resolution adopted by the Tennessee Association of Alpha Phi Alpha Fraternity, Inc., relative to acid rain legislation; to the Committee on Environment and Public Works.

POM-364. A resolution adopted by the Legislature of the State of California relative to the Republic of Korea; to the Committee on Foreign Relations.

"S. CON. RES. 6

"Whereas, The friendship and commerce program in the form of the sister city concept was inaugurated by the President of the United States in 1956 to establish greater friendship and understanding between the people of the United States and other nations through the medium of direct personal contact; and

"Whereas, All succeeding United States Presidents have endorsed this program conducted for the broad purpose of exchanging ideas between the citizens of this state, the United States, and the people of other nations; and

"Whereas, The people of the Republic of Korea, like the people of this state and the United States, generally, have overcome great adversity and have built a successful, prosperous, free economy; and

"Whereas, The Republic of Korea has been one of the most faithful allies of the United States since 1948; and

"Whereas, Strong commercial ties now exist between the citizens of the Republic of Korea and the citizens of this state; and

"Whereas, The people-to-people program initiated by President Eisenhower in 1956 and endorsed by President Kennedy in 1961 was designed to bring the people of the world closer together in the interests of peace and prosperity; and

"Whereas, A friendship and commerce relationship between the Republic of Korea and California is in the best interest of a cooperative and mutually beneficial relationship for the people of the two geo-political entities involved; now, therefore, be it

"Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature, on behalf of the people of the State of California, extends to the people of the Republic of Korea, and invitation to join California in a friendship and commerce relationship and to conduct mutually beneficial social, economic, educational, and cultural programs in order to bring our citizens closer together and strengthen international understanding and goodwill; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the Prime Minister of the Republic of Korea, the Speaker of the National Asssembly, the Mayor of Seoul, Republic of Korea, George Deukmejian, Governor of California, each Member of Congress from the State of California and to the presiding officers of the legislative houses of the other states of the Union."

POM-365. A petition from the officers and members of Zone Temple #86, Pythian Sisters of Sandusky, Ohio, favoring legislation to declare October 16-23, 1988 as "National Pythian Sisters Week"; to the Committee on the Judiciary.

POM-366. A resolution adopted by the City Council of Detroit, Michigan opposing any effort by any level or agency of government to subvert the rights of working men and women by interfering with and/or taking over any labor organization that is a part of this Country's free trade union movement; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Special report entitled "Finance Committee Allocation of Budget Totals—Fiscal Year 1988" (Rept. No. 100-252).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 526. A bill for the relief of Kumari Rajlakshmi Bais.

H.R. 1191. A bill for the relief of Maria Helena Vas and Jose Maria Vas.

H.R. 1390. A bill for the relief of Chu Pei Yun (Zhu Bei Yun).

H.R. 1863. A bill for the relief of Helen Ying-Yu Lin.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. DODD, and Mr. WEICKER):

S. 1938. A bill to establish a commission to investigate Federal involvement with the immigration of Nazi collaborators; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. GLENN, Mr. BENTSEN, Mr. CHILES, Mr. DANFORTH, Mr. DODD, Mr. DOLE, Mr. GRAHAM, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. PRESSLER, Mr. RIEGLE, Mr. STAFFORD, Mr. STENNIS, and Mr. SYMMS):

S. 1939. A bill to grant a Federal charter to the Challenger Center, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. DANFORTH):

S. 1940. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. FORD, Mr. GARN, Mr. SIMPSON, Mr. MCCLURE, and Mr. DECONCINI):

S. Res. 341. A resolution to permit amendments to bills implementing trade agreements under section 151(d) of the Trade Act of 1974 if such amendments relate to the domestic or foreign commerce of the United States in uranium, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. DODD, and Mr. WEICKER):

S. 1938. A bill to establish a Commission to Investigate Federal Involvement With the Immigration of Nazi Collaborators; to the Committee on the Judiciary.

COMMISSION TO INVESTIGATE FEDERAL INVOLVEMENT WITH THE IMMIGRATION OF NAZI COLLABORATORS ACT

● Mr. METZENBAUM. Mr. President, today I am introducing legislation to establish a commission to investigate Federal involvement with the immigration of Nazis and Nazi collaborators.

For too long, there have been reports of Federal agents aiding Nazis and axis collaborators in their attempts to escape to the United States and other parts of the world. It has been widely rumored that many Nazis were used by the Federal Government for their scientific and technical expertise and that others were used in United States campaigns against communism in Europe. Further, there has been increasing evidence that certain Federal agents and agencies had a hand in hiding the pasts of certain Nazis and Nazi collaborators during the years following World War II.

Unfortunately, there have never been any clear answers in this controversy. In 1982, the House Judiciary Committee ordered the GAO to study these allegations, but after 3 years, the Comptroller General came back with a highly inconclusive report. In the report he stated: "It is highly unlikely that any widespread conspiracy has existed in Federal agencies." However, the report went on to say that GAO "cannot absolutely rule out the possibility of * * * deliberate obstruction of investigations of some alleged Nazi war criminals." For some reason, GAO would not, or could not, clearly indicate the full extent of Federal involvement in these activities.

Most recently, in the trial of Klaus Barbie, we have been painfully reminded of the United States government's efforts to aid Nazis during the years immediately following World War II. The Federal Government helped Barbie, and other Nazis, flee Europe and relocate in South America and the United States. In theory, these actions were taken in order to keep these Nazis from aiding Communists and the Soviet Union. In reality, these actions represent the execution of painfully flawed policies, and are unforgivable excuses for aiding the most heinous criminal of the time.

We cannot allow the facts surrounding this untold chapter in history to lie uncovered. As painful and damaging as the facts may be, we can no longer allow them to remain hidden.

George Santayana, a Spanish writer and philosopher who lived in the United States, wrote: "Those who cannot remember the past are condemned to repeat it." This is one chapter in history that we cannot allow to be repeated.

Mr. President, we cannot allow these questions to remain unanswered. The legislation I am introducing will authorize the establishment of a commission to investigate Federal involvement with the immigration of Nazis. The commission will be composed of nine members, chosen by the Congress and the President. It will have full subpoena activity so that it can get to the truth behind this matter. The commission would issue a report within 18 months, describing the full extent of Federal involvement with the immigration of Nazis.

This measure will enable us to learn the facts. I urge my colleagues to support it.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission To Investigate Federal Involvement With the Immigration of Nazi Collaborators Act".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the Commission To Investigate Federal Involvement With the Immigration of Nazi Collaborators (hereinafter in this Act referred to as the "Commission").

(b) MEMBERS.—(1) The Commission shall be composed of nine members, who shall be appointed within ninety days after the date of the enactment of this Act, as follows:

(A) Three to be appointed by the President.

(B) Three members to be appointed by the President from a list transmitted by the Speaker of the House of Representatives.

(C) Three members to be appointed by the President from a list transmitted by the majority leader of the Senate.

(2) Each list transmitted under paragraph (1) shall contain the names of at least six individuals. In preparing such lists the Speaker of the House of Representatives shall consult with the minority leader in the House of Representatives and the majority leader of the Senate shall consult with the minority leader in the Senate.

(3) No individual who is an officer or employee of the Federal Government is eligible to serve as a member of the Commission.

(c) TERMS AND VACANCY.—Members shall be appointed for the life of the Commission. Any vacancy occurring in the membership of the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(d) MEETING.—The first meeting of the Commission shall be called by the President within one hundred and twenty days after the date of the enactment of this Act, or within thirty days after the date on which legislation is enacted making appropriations to carry out this Act, whichever date is later. Thereafter, the Commission shall meet at the discretion of its Chairman or at the call of a majority of its members.

(e) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) NO COMPENSATION BUT TRAVEL EXPENSES.—No member of the Commission shall be paid any compensation by virtue of service performed as a member of the Commission. However, while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 3. DUTIES.

(a) GENERAL INVESTIGATION.—The Commission shall conduct a full and complete investigation of any efforts by the Federal Government to assist Nazi war criminals and Axis collaborators in entering the United States, including any such efforts to conceal their backgrounds and any knowledge by Federal officials of their backgrounds.

(b) SPECIFIC REVIEW.—In particular, the Commission shall determine—

(1) how many Nazi war criminals and Axis collaborators entered the United States with the assistance or knowledge of officials of the Federal Government,

(2) the nature and extent of such assistance and knowledge, including the levels of the officials who provide that assistance or had such knowledge, and

(3) the extent to which intelligence agencies of the Federal Government used deception or violated the laws of the United States in bringing these individuals to the United States, and the extent to which these agencies provided false or misleading information to Congress concerning their activities in this respect.

(c) REPORT.—The Commission shall submit a written report of its findings and recommendations to the President and the Congress as soon as practicable, but not later than eighteen months after the date of the first meeting of the Commission under section 2(d). Such report may include recommendations for such changes in law or regulations as may be required to safeguard against unlawful assistance in similar cases.

SEC. 4. POWERS OF COMMISSION.

(a) MEETINGS AND HEARINGS.—For purposes of carrying out this Act, the Commission or, on the authorization of the Commission, any subcommittee or member thereof, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it considers appropriate.

(b) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) SUBPOENAS.—(1) In carrying out this Act, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and production of any evidence that relates to any matter which the Commission has the authority to investigate. A subpoena may be authorized and issued by the Commission in the conduct of its investigations only when authorized by a majority of its members voting, a majority being present. Subpoenas may be issued over the signature of the Chairman of the Commission, or any member of the Commission designated by that Chairman. The Chairman of the Commission, and any member of the Commission designated by the Chairman, may administer oaths to any witness.

(2) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(5) The Commission is deemed to be an agency of the United States for the purpose of applying part V of title 18, United States Code (relating to immunity of witnesses) to proceedings before the Commission.

SEC. 5. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—(1) The Commission may appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS-18 of the General Schedule under section 5332 of such title.

(2) Upon request of the Commission, the head of any Federal agency is authorized to detail to the Commission, on a reimbursable basis, any of the personnel of such agency to assist the Commission in carrying out its duties under this Act and such detail shall be without interruption or loss of civil service status or privilege.

(b) USE OF EXPERTS AND CONSULTANTS.—The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-16 of the General Schedule.

(c) ADMINISTRATIVE SERVICES.—The Commission may enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may

be agreed upon by the Chairman of the Commission and the Administrator.

(d) SUPPLIES.—The Commission may procure supplies, services, and property by contract in accordance with the applicable laws and regulations and to the extent or in such amounts as are provided in advance in appropriations Acts.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. TERMINATION OF COMMISSION.

The Commission shall terminate ninety days after the date on which the report of the Commission is submitted to the Congress under section 3(c).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION ON CONTRACT AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out the provisions of this Act, there are authorized to be appropriated such sums as may be necessary.

(b) RESTRICTION ON CONTRACT AUTHORITY.—Any authority under this Act to enter into contracts shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.●

By Mr. GARN (for himself, Mr. GLENN, Mr. BENTSEN, Mr. CHILES, Mr. DANFORTH, Mr. DODD, Mr. DOLE, Mr. GRAHAM, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. PRESSLER, Mr. RIEGLE, Mr. STAFFORD, Mr. STENNIS, and Mr. SYMMS):

S. 1939. A bill to grant a Federal charter to the Challenger Center, and for other purposes; to the Committee on the Judiciary.

FEDERAL CHARTER FOR THE CHALLENGER CENTER

Mr. GARN. Mr. President, in 1969, I was with my father when the Apollo crew made their "leap for mankind" on the surface of the Moon. As we watched the historic events unfold, my father began to weep. I asked him, "Dad, what's wrong?" He told me that he was thinking back to the day when his father had read him the account of the Wright brothers' first flight and the excitement and wonder he felt at that time. To think that we had come so far in one lifetime was an emotional event for the millions of Americans and others around the world who watched the Moon landing that night—and for my father in particular, who had been inspired by the Wright brothers to become one of Utah's pioneer aviators. I have said in this Chamber before that I wish my father had been able to share in the experience of my shuttle flight because he, as much as anyone I know, appreciated and reveled in the progress we have made in space.

This week marks the anniversary of that first flight at Kitty Hawk. It is an appropriate time for us to measure the progress we have made in these short 80 years, to reflect on our accomplishments and defeats, on both the triumphs and the tragedies. However, most importantly, we need to focus on our future in space. We mustn't forget to dream of the possibilities that space offers us, and we in Congress mustn't forget our grave responsibility to turn those dreams into realities.

As you will recall, Mr. President, last spring Senator GLENN and I, along with a number of our colleagues, introduced S. 407, legislation to grant a Federal charter to the Challenger Center for Space Science Education. S. 407 includes a section to authorize up to $10 million for the purpose of assisting the Challenger Center in becoming a national learning center. However, there are some procedural problems inherent in authorizing moneys on charter legislation.

Therefore, today we will introduce new charter legislation that will include no authorizing language. The new bill will be the same as S. 407, except that section 17, entitled "Authorization," will be deleted.

Eighteen cosponsors of S. 407 have already joined as original cosponsors to the new chapter legislation. I am hopeful that other Senators will show their support for this project and add their names as cosponsors in the near future. Forty cosponsors are required in order to ensure Judiciary Committee consideration of this bill.

A Federal charter offers to an organization the recognition and stature of being acknowledged by the Federal Government. The Boy Scouts and Girl Scouts of America, the U.S. Olympic Committee, the Future Farmers of America, and other worthy organizations enjoy a Federal charter. The charter does not act as an endorsement, nor can the organization claim congressional approval or Federal Government authority for any of its activities, unless so authorized by Congress or the appropriate Federal authorities.

Granting the Challenger Center a Federal charter will be a significant measure of our interest in supporting and promoting this worthy cause.

As you know, following the shuttle accident, the families of the *Challenger* crew decided to establish a space education center called the Challenger Center. Their hope is that this center will continue the final mission of the *Challenger* and help to complete the dreams of those who flew her.

Our intention is to make the Challenger Center the Nation's principal commemorative effort in honor of the seven brave Americans who lost their lives when the space shuttle *Challenger* was destroyed on January 28, 1986. It will be a "living memorial" to the *Challenger* crewmembers.

The center will provide the children and young people of the Nation with an opportunity to experience the sciences, especially the space sciences, at work. It will help teachers learn how to be more effective in teaching the concepts embodied in space science. And it will serve as a focal point to bring together the best talents, skills, and resources to continue to improve learning and teaching opportunities for generations to come.

The center has made significant strides in establishing a Washington headquarters, as well as regional mission sites and affiliated museums across the country. Over 10,000 individuals have contributed in excess of $2 million, and the families and friends of the Challenger Center have traveled thousands of miles to communicate the purpose of the Challenger Center and to garner valuable support for its programs.

Congressman JACK BROOKS is introducing companion legislation in the House of Representatives today to grant the center a Federal charter. We are hopeful that both bills will be given early consideration and passed in the near future.

Mr. President, I ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The Challenger Center, a nonprofit corporation organized under the laws of the State of Texas, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Challenger Center (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its articles of incorporation and, for the purpose of perpetuating the memories of the Members of the Crew of the space shuttle Challenger, who lost their lives on January 28, 1986, during the launch of flight 51-L, shall include—

(1) building and maintaining a Challenger Center (referred to in this Act as "the Center"), to serve as a "living memorial" to the Challenger crewmembers;

(2) developing within the Center a dynamic national learning center which shall serve as a model for the stimulation of interest in and the development of curricula and teaching aids for space science education and shall include scholarship and residential training programs for students and teachers;

(3) providing within the Center "hands-on" learning experiences for children, including interactive exhibits, in areas which shall be free and open to the public;

(4) developing and producing space science educational programs, to be made available for distribution through such media as nationwide cable broadcasts, in association with other entities involved in the dissemination of information related to the sciences, such as the Smithsonian Institution; and

(5) participating, in a spirit of cooperation and reciprocity, in programs with other societies devoted to the expansion of space science education and the commemoration of

the significant achievements of America's space exploration programs.

The corporation shall function as a space science education organization as authorized by the laws of the State or States in which it is incorporated.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. ELIGIBILITY FOR MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation, except that terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

SEC. 6. BOARD OF DIRECTORS.

The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS ON CORPORATE POWER.

(a) DISTRIBUTION OF INCOME OR ASSETS TO MEMBERS OR OFFICERS OF THE CORPORATION.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection shall be construed to prevent the payment of compensation to the officers of the corporation for services rendered to the corporation or to prevent their reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS OR ADVANCES.—The corporation shall have no power to make loans or advances to any member, officer, director, or employee of the corporation.

(c) ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(d) NONPOLITICAL NATURE OF THE CORPORATION.—(1) The Corporation and its officers, employees, and agents acting as such shall have no power to contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation. The provisions of this paragraph shall not preclude the corporation from responding to Congressional requests for testimony regarding legislation dealing with the matters with the scope of the corporation's activities, or with respect to legislation affecting space science educational programs of the Federal Government.

(2) No officer or director of the corporation, acting as such officer or director, may commit any act prohibited under paragraph (1) of this subsection.

(e) APPROVAL OF THE CONGRESS OR THE FEDERAL GOVERNMENT.—The corporation shall have no power to claim congressional approval or Federal Government authority for any of its activities, unless such approval or authorization is provided by action of the Congress or by the appropriate Federal officials, in accordance with established laws and administrative procedures, or unless such activities are expressly within the scope of this Act.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when they have acted within the scope of their authority.

SEC. 10. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of the corporation may be inspected by any member, or any agent or attorney of such member, for any proper purpose, at any reasonable time.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law.", approved August 30, 1964 (78 Stat. 636; 36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(72) Challenger Center.".

SEC. 12. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required pursuant to section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law.", approved August 30, 1964 (78 Stat. 636; 36 U.S.C. 1102). The report shall not be printed in a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

SEC. 16. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Mr. GLENN. Mr. President, I would like to rise in support of this bill.

We now stand at a crossroads for the space program—we have moved beyond the tragedy of the *Challenger* accident, but have not yet stepped firmly toward a revitalized space program.

Twenty-five years ago, America was at the cutting edge of space technology. We were firmly committed to excellence in space and were prepared to do what was necessary to ensure that we remained at the forefront of the modern scientific revolution. Today, we need to commit ourselves to another quarter century of excellence, to see to it that we have what it takes to bring us triumphantly into the 21st century, and to ensure that our most precious resource, our children, have the educational opportunities to take full advantage of our technical advances.

We have before us an indication of the path we are choosing. The Challenger Center for Space Science Education is well on the way to becoming reality. It is a place where the educational mission of the *Challenger* can be continued, where young minds can be stimulated, and where future generations can be encouraged to study science. Clearly, the center merits our full support.

The Challenger Center is particularly exciting because it is not a statue that will be solemnly and passively viewed, then quickly forgotten. And it isn't simply a once-a-year observation of a tragic event. Instead, it is a living memorial expressing the goals and ideals of the *Challenger* crew, embodying the mission of the space shuttle *Challenger*, and furthering the education of our Nation's youth. Its success is not only an indication that the *Challenger*'s educational mission will continue, but that the American people strongly support the space program.

Almost as important as this is the fact that the Challenger Center for Space Science Education stands as a symbol for the two principles which made this country what it is today. First, it stands for education—perhaps the most fundamental strength of our Nation. Second, it represents our commitment to research and science, which has allowed us to continually push back our frontiers. Education and basic research have laid the groundwork for our society, and we need to do all we can to build upon that foundation.

Today we do indeed stand at a crossroads. We were brought here by the *Challenger* tragedy, and in many ways we can blame the accident for the space program's lost momentum. However, we can also see now that we were full of complacency, a sense that we could continue to reap success because we had always done so—and that was very dangerous attitude to take.

We are now confronted with a multitude of choices regarding the space program, but that is a good thing, for we can now choose to make America's excellence in space a national goal. The Challenger Center will help us make this positive choice, and we now have a firm commitment to the future.

By Mr. MOYNIHAN (for himself and Mr. DANFORTH):

S. 1940. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

NATIONAL HERITAGE RESOURCE ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce S. 1940, the National Heritage Resource Act, which will restore the ability of museums, public libraries, and research institutions in the United States to acquire major collections of original works by living artists, writers, composers, and scientists. I am joined by my distinguished colleague from Missouri, Senator DANFORTH. The National Heritage Resource Act will ensure that our Nation's cultural heritage will be preserved and made available in our libraries, museums and universities for public enjoyment and for scholarly research. Companion legislation has already been introduced in the House of Representatives by Representative THOMAS J. DOWNEY.

The National Heritage Resource Act will repeal a change made to the Tax Code in 1969, which has had a pernicious effect on the efforts of public nonprofit and governmental institutions to preserve our cultural heritage. The 1969 change specifically denied to living scientists, painters, authors, poets, composers, and other creative artists a tax deduction for the fair market value of self-created works or papers that they personally donate to a museum, library, or research institution. Such individuals may only deduct the cost of materials used to produce the donated property—the paint and canvas, paper and ink, or the like. As a result, the tax incentive for donations of artistic or literary property by its creators to public nonprofit or governmental institutions has been virtually eliminated. By contrast, a purchaser of a painting or original manuscript who subsequently donates the property receives a full fair market value deduction for the gift.

The impact of the 1969 change on the preservation of our cultural heritage for public enjoyment has been hurtful in the extreme. The removal of the tax incentive for donations by original producers has meant that creative works and manuscripts now almost invariably go into the commercial market, either here or abroad. According to Dr. Daniel J. Boorstin, Librarian of Congress Emeritus, the Library of Congress was receiving manuscript collections totaling nearly 200,000 manuscripts each year prior to 1969. Since that time, the Library has received only one major gift of self-created material of a living author. The Library of Congress' Music Division has been similarly affected: it received 1,200 manuscripts between 1963 and 1970, and only 30 manuscripts in the decade after that.

The loss of the Igor Stravinsky manuscripts illustrates the problem in painful detail. In 1962, the great composer began to donate his manuscripts to the Library of Congress on a systematic basis. Two were given in that year, two in 1963, nine in 1964, four in 1965, and so on. By 1969, Dr. Boorstin has written, Stravinsky, then in his late eighties, initiated discussions with the chief of the Library's Music Division concerning the disposition of the entire body of his works. But the tax changes of that year brought the process to a halt, and the Stravinsky manuscript collection is now in the hands of a private foundation in Switzerland.

The experience of libraries and museums around the country has been similar. In New York State, New York University reports a decline in donations by authors and artists of between 80 and 90 percent since 1969; the New York State Library estimates a similar reduction in gifts of manuscripts. The Museum of Modern Art in New York City received donations of 52 works from creators in the 3 years before the provision went into effect, but only 15 works since 1972.

The long-term effects of the 1969 amendment have been a concern for some time. In 1981, a Presidential Task Force on the Arts and Humanities recommended repealing the 1969 provision, and the Senate Finance Committee approved a measure to do so in 1982, though the provision was not enacted into law. Both Senator BAUCUS and I have introduced legislation in recent years with the same aim. The decline in creator donations, and the toll on our cultural heritage, continues. The need for remedial action remains urgent.

The legislation I introduce today would restore the full fair market value deduction for creators of literary, musical, and artistic properties, restoring to them the same tax treatment as that given a purchaser or collector of such property who donates. This will help to restore the past practice of direct donations to institutions by creators themselves, increasing the odds that their works and papers will be widely available for the enjoyment and edification of the many—not privately held for the more fortunate few. This change will also foster the ability of the individual artist, author, or composer to determine which institution would most benefit from receiving a work—an important factor in ensuring the quality and integrity of collections, as noted by the Presidential Task Force on the Arts and Humanities.

The legislation I introduce today contains specific safeguards against abuse by donors. The bill requires that works for which a deduction are taken be in existence for at least 1 year before the work is donated to discourage tax-inspired creations. Also, donors must obtain a written appraisal of the fair market value of the donated work, and file it with their return. The appraisal must include evidence of the extent to which the works of the donor are owned, maintained, or displayed by museums, libraries, research facilities, or similar institutions. Finally, the receiving institution must use the donated property in a manner related to its tax-exempt purpose.

The legislation also addresses a key concern that motiviated the 1969 legislation: tax write-offs for the donation of papers by public officials. The bill contains a flat prohibition on the use of the deduction for the donation of any letter, memorandum, or similar property written by or for an individual in furtherance of official duties while such individual was an officer or employee of the United States or any State or locality.

In this regard, it seems to me time that we be open about the origins of the 1969 legislation. You will imagine that it was not written into the Tax Code for the purpose of depriving the Library of Congress of the Stravinsky manuscripts. It was inserted in the Tax Reform Act of 1969 with the specific intent of denying a tax deduction to former President Lyndon B. Johnson and former Vice President Hubert H. Humphrey. Each was then retired—or so it was thought. Senator Humphrey of course gloriously returned to our ranks. One Senator sought to punish, in their political eclipse, two great public men who had been unassailable at the apogee of their influence and strength. But the legislation went far beyond its original narrow intent, catching in its net the entire creative community. A matter of indifference to its sponsor, perhaps, but hardly to us. A full political generation later, it is time for remedy.

Mr. President, this legislation will restore some incentive for our Nation's artists, poets, authors, composers, and scientists to favor public institutions over the commercial market when it comes to the disposition of their works and papers. The public good is the ultimate beneficiary. This legislation helps to preserve the record of American civilization—our national heritage—by encouraging its deposit in the institutions most competent to preserve it and insure access to all. The need is great, and I urge my colleagues to join me in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

"(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

"(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

"(ii) no reduction in the amount of such contribution shall be made under subparagraph (A) or (B) of paragraph (1).

"(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, music, artistic or scholarly composition, any letter or memorandum, or similar property, but only if—

"(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 1 year prior to such contribution,

"(ii) the taxpayer—

"(I) has received a written appraisal of the fair market value of such property by a person qualified to make such appraisal (other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)) which is made within 1 year of the date of such contribution,

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal, and

"(III) the appraisal takes into account but is not limited to the factors described in clause (vi),

"(iii) the donee is an organization described in subparagraph (A) of subsection (b)(1),

"(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

"(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

"(vi) the written appraisal referred to in clause (ii) includes evidence of the extent to which property created by the personal efforts of the taxpayer is or has been—

"(I) owned, maintained, or displayed by organizations described in subparagraph (A) of subsection (b)(1), and

"(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)).

"(C) MAXIMUM DOLLAR LIMITATION.—The aggregate amount of qualified artistic charitable contributions allowable to any taxpayer as a deduction under subsection (a) for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

"(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

"(i) income with respect to the type of property described in subparagraph (B) that is created by the taxpayer, and

"(ii) income from teaching, lecturing, performing, or similar activity with respect to such property or to similar property created by individuals other than the taxpayer.

"(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS BY PUBLIC OFFICIALS.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee."

SEC. 2. TREATMENT OF EXCESS DEDUCTION FOR PURPOSES OF MINIMUM TAX.

Paragraph (1) of section 56(b) of the Internal Revenue Code of 1986 (relating to adjustments applicable to individuals) is amended by adding at the end thereof the following new subparagraph:

"(F) DEDUCTION FOR CHARITABLE CONTRIBUTION OF ART, ETC. CREATED BY TAXPAYER NOT ALLOWED.—In determining the amount allowable as a deduction under section 170, subsection (e)(6) shall not apply."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to contributions made after December 31, 1987, in taxable years ending after such date.●

ADDITIONAL COSPONSORS

S. 368

At the request of Mr. MATSUNAGA, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 368, a bill to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs in the United States, to place restrictions on drug samples, to ban certain resales of drugs purchased by hospitals and other health care facilities, and for other purposes.

S. 450

At the request of Mr. ARMSTRONG, the names of the Senator from Kentucky [Mr. FORD], the Senator from Florida [Mr. CHILES], the Senator from Texas [Mr. GRAMM], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 450, a bill to recognize the organization known as the National Mining Hall of Fame and Museum.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1620

At the request of Mr. PELL, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1620, a bill to reauthorize and revise the act of September 30, 1950 (Public Law 874, 81st Congress) relating to Federal impact aid, and for other purposes.

S. 1787

At the request of Mr. DASCHLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1830

At the request of Mr. SANFORD, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1830, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition—and a new alternative formula with respect to such transition—to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as they apply to workers born in years after 1916 and before 1930—and related beneficiaries—and to provide for increases on their benefits accordingly, and for other purposes.

S. 1893

At the request of Mr. BUMPERS, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 1893, a bill to amend the Internal Revenue Code of 1986 to extend the individual income tax rates in effect in 1987 for 3 years but to provide cost-of-living adjustments in such rates, and for other purposes.

S. 1896

At the request of Mr. CRANSTON, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Illinois [Mr. DIXON], the Senator from Michigan [Mr. RIEGLE], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1896, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 1929

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

SENATE JOINT RESOLUTION 180

At the request of Mr. PRESSLER, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 180, a joint resolution designating the honeybee as the national insect.

SENATE JOINT RESOLUTION 199

At the request of Mr. BYRD, the name of the Senator from Virginia

[Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 199, a joint resolution to designate the month of April 1988, as "Trauma Awareness Week".

SENATE JOINT RESOLUTION 215

At the request of Mr. DURENBERGER, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial to women of the Armed Forces of the United States who served in the Vietnam war.

SENATE JOINT RESOLUTION 218

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 218, a joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. MELCHER, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution to facilitate the convening of a Silver-Haired Congress.

SENATE RESOLUTION 270

At the request of Mr. LAUTENBERG, the names of the Senator from South Dakota [Mr. DASCHLE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 270, a resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

SENATE RESOLUTION 341—RELATING TO CONSIDERATION OF BILLS IMPLEMENTING TRADE AGREEMENTS

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. FORD, Mr. GARN, Mr. SIMPSON, Mr. MCCLURE, and Mr. DECONCINI) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 341

Resolved, That with respect to the Senate, the provisions of section 151(d) of the Trade Act of 1974 (19 U.S.C. 2191(d)) (relating to the prohibition of amendments) shall not apply to an amendment to an implementing bill or approval resolution relating to the domestic or foreign commerce of the United States in uranium.

Mr. DOMENICI. Mr. President, today I am introducing a resolution on behalf of myself, Senator BINGAMAN and others, changing the Senate rules to allow the Free Trade agreement with Canada to be amended. Earlier the Senate had agreed to prohibit amendments to the Free Trade Agreement. If this resolution is approved the Senators could offer a plan for transitional protection for the United States Uranium Industry which the Canadian negotiators refused to include in the agreement just last Sunday.

U.S. trade negotiators responded favorably when asked to provide protection to the U.S. uranium industry following a letter from the coalition of 24 Senators. The letter urged the President to incorporate a plan for transitional protection for the industry that was recently approved by the Senate Energy Committee. Mr. President, I ask unanimous consent that the letter to the President be included in the RECORD. United States trade negotiators offered the plan to Canadian negotiators on Sunday, however, the Canadians turned the plan down. The Canadians' refusal to include our plan has forced us to go this route. We will have to change the agreement which, as it is presently written would prohibit any protection for our U.S. industry.

The Secretary has been sued by uranium mining companies because after finding the industry "non-viable," he failed to act on this finding and use his authority to protect the industry. A decision by the Supreme Court on whether to hear an appeal by the Secretary, who lost in two lower courts, is expected in the near future.

In response, the Senate Energy Committee approved legislation, S. 1486, to provide protection for our uranium industry through the year 2000. Uranium producers and nuclear utilities helped modify the bill.

The import section of the bill penalizes utilities for using excessive amounts of foreign uranium. The legislation states that a utility will be penalized on a sliding scale per kilogram of foreign uranium used beyond 37.5 percent of its total uranium consumption until the year 2000.

There being no objection, the letter mentioned earlier was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, DC, December 1, 1987.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Uranium is now second only to coal as an energy source for electricity production in the United States, accounting for almost 20 percent of domestic electric power generation. Use of uranium as a fuel in nuclear power plants is now displacing over two million barrels per day of imported oil, and is saving the nation $15 billion per year in foreign oil payments. Similarly, the Nation continues to have a substantial reliance upon uranium for its national defense requirements.

A strong domestic uranium industry and a strong domestic enrichment enterprise are required if the United States is to ensure its ability to meet the demand for nuclear energy and its defense responsibilities. Ironically, at this critical time, both the uranium mining industry and the uranium enrichment enterprise are severely depressed. Indeed, the uranium industry has been formally declared to be "non-viable" by the Secretary of Energy. There is a broad consensus that the uranium enrichment enterprise simply cannot continue to operate as it has in the past.

In order to resolve these problems, a comprehensive program is desperately needed.

Fortunately, the uranium producers and nuclear utilities have cooperatively sought development of such a program through the legislative process. On October 1, 1987, the Senate Energy and Natural Resources Committee ordered reported S. 1846, a comprehensive bill that ensures this country's utility and defense requirements for uranium will be met. Among other things, this legislation eliminates any restriction on the enrichment of foreign uranium for domestic use. For an interim period, this restriction is replaced by imposing a sliding scale of charges for the use by utilities of foreign uranium above specified levels. All restrictions expire automatically on January 1, 2001. The bill also totally reorganizes the uranium enrichment enterprise to permit operation as a continuing, commercial enterprise on a profitable and efficient basis.

We believe the uranium supply policy embodied in this legislation is compatible with the proposed U.S.-Canadian Trade Agreement. Canada does not sell uranium to the United States for military purposes. Therefore, it is imperative that any trade agreement with Canada recognize the importance of the U.S. uranium industry to our national defense.

The legislation reported by the Committee on Energy and Natural Resources revitalizes the domestic uranium mining industry in a manner that achieves the uranium trade objectives of Agreement. The bill repeals section 161(v) of the Atomic Energy Act, which requires the Secretary of Energy to restrict the enrichment of foreign uranium.

The bill also preserves existing contracts for the purchase of foreign uranium. It imposes limited charges for the use of foreign uranium in the next few years while preserving a substantial share of the U.S. uranium market for foreign producers. In fact, taking into account the provision respecting preservation of existing contracts, the net effect of the legislation is to preserve 50 percent of the domestic market for imported uranium during the period of transition to a free market.

In summary, S. 1846 provides for a phased implemetation of free trade in uranium. We understand that a gradual approach will also be proposed in implementing other areas of the U.S.-Canadian Agreement. We urge that in developing the Administration's proposals for implementing legislation for the uranium provisions of the Agreement, the Administration take advantage of the consensus among uranium producers, electric utilities, and Members of Congress that is reflected in the legislation reported by the Committtee on Energy and Natural Resources.

Sincerely,

Wendell H. Ford, J. Bennett Johnson, Pete V. Domenici, James A. McClure, Jeff Bingaman, Jake Garn, Orrin G. Hatch, Don Nickles, Robert Dole, Chic Hecht, Ted Stevens, Steve Symms, Bill Armstrong, Richard Shelby, Malcolm Wallop, Alan K. Simpson, John Breaux, David I. Boren, John W. Warner, Mitch McConnell, Dennis DeConcini, John McCain, Frank H. Murkowski, Robert C. Byrd.

Mr. BINGAMAN. Mr. President, I am pleased to introduce this resolution with my colleague, Senator DOMENICI, regarding the domestic uranium and the United States-Canada Free Trade Agreement.

Our Nation has long recognized the importance of a viable domestic uranium industry. A strong domestic uranium industry and a strong domestic enrichment enterprise are required if the United States is to ensure its ability to meet the demand for nuclear energy and its defense responsibilities. Indeed, the uranium industry has been formally declared to be "non-viable" by the Secretary of Energy. This is reflected in the fact that the domestic uranium industry is facing approximately 90-percent unemployment and production is down to about one-third of peak levels and United States needs. In New Mexico, all licensed uranium mills with the exception of one have been placed on standby status and some will not reopen.

In order to resolve these problems, a comprehensive program is desperately needed.

On October 1, 1987, the Senate Energy and Natural Resources Committee reported out S. 1846, legislation that ensures this country's utility and defense requirements for uranium will be met.

Among other things, this legislation eliminates any restriction on the enrichment of foreign uranium for domestic use. For an interim period, this restriction is replaced by imposing a sliding scale of charges for the use by utilities of foreign uranium above specified levels. All restrictions expire automatically on January 1, 2001.

The bill repeals section 161(v) of the Atomic Energy Act, which requires the Secretary of Energy to restrict the enrichment of foreign uranium. The bill also preserves existing contracts for the purchase of foreign uranium. It imposes limited charges for the use of foreign uranium in the next few years, while preserving a substantial share of the U.S. uranium market for foreign producers.

Mr. President, the uranium supply policy embodied in this legislation is compatible with the proposed United States-Canadian Free Trade Agreement. S. 1846 provides for a phased implementation of free trade in uranium. It is my understanding that a gradual approach will also be proposed in implementing other areas of the United States-Canadian agreement. Canada does not sell uranium to the United States for military purposes. Therefore, it is imperative that any trade agreement with Canada recognize the importance of the United States uranium industry to our national defense.

However, because of the process by which the agreement will come before the Senate—the fast-track procedure, implementing legislation may come into conflict with the bill. The purpose of this resolution is to create a process whereby implementation of the United States-Canadian Free Trade Agreement will not conflict with the consensus among uranium producers, electric utilities, and Members of Congress that is reflected in the legislation reported by the Committee on Energy and Natural Resources.

I urge my colleagues to support this resolution.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

INOUYE AMENDMENT NOS. 1255 AND 1256

Mr. INOUYE proposed two amendments to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill (S. 1920) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress); as follows:

AMENDMENT No. 1255

At the appropriate place in title IV of the amendment, insert the following new section:

SEC. . AMENDMENT TO MORTGAGE BOND PURCHASE PRICE REGULATIONS.

The Secretary of the Treasury or his delegate shall amend the regulations relating to mortgage bond purchase price requirements, with respect to any lease with a remaining term of at least 35 years and a specified ground rent for at least the first 10 years of such term, to provide for a capitalized value of such lease equal to the present value of the current ground rent projected over the remaining term of the lease and discounted at 3 percent of such other discount rate as the Secretary establishes. If such amendment is not made before the date of the enactment of this Act, such regulations shall be considered to include such amendment.

AMENDMENT No. 1256

SEC. . EXEMPTIONS FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS AND CARGO.

(a) PASSENGERS TRANSPORTED BETWEEN POSSESSION, ETC.—Paragraph (1) of section 4462(b) (relating to a special rule for Alaska, Hawaii, and possessions) is amended.

(1) by inserting "or passengers" after "cargo" in subparagraph (D), and

(2) by inserting at the end thereof the following new sentence: For purposes of subparagraph (D), the loading and unloading of passengers shall not be included in such subparagraph if there is any loading or unloading of such passengers outside the State or possession of such loading."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. . AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) CARGO TRANSPORTATION BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(b) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSIONS.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "July 1, 1988".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

HARKIN (AND OTHERS) AMENDMENT NO. 1257

Mr. HARKIN (for himself, Mr. BURDICK, Mr. LAUTENBERG, Mr. HELMS, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. KASTEN, and Mr. HEINZ) proposed an amendment to amendment No. 125 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . EQUITABLE APPLICATION OF THE LIMITATION ON PAYMENTS THAT MAY BE RECEIVED BY A PERSON.

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by adding at the end of subparagraph (A), the following new sentence: "Such regulations shall provide that a producer who rents or leases land from an individual or entity must be combined as one person, for payment limitation purposes, with the individual or entity from whom the land is rented or leased unless the producer makes a substantial contribution of owned land or owned equipment and personal management to the farming operation that includes the rented or leased land."; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) In applying the limitation provided for by this section, the Secretary shall—

"(i) provide for similar treatment of all entities;

"(ii) except as provided in clause (iii), determine the amount of payments that may be received by any entity based on the number of members of the entity who are determined to be actively engaged in farming;

"(iii) consider any entity that is conducting a farming operation independently of all of its members to be a separate person, and combine as one separate person all entities that are owned or controlled by the same one or more individual;

"(iv) except as provided in subparagraph (D), attribute all payments received by an entity to the members of the entity that have an interest in the entity, such attribution to be based on the interest of the member in the entity; and

"(v) consider an individual or entity that is a member of an entity to be actively engaged in farming if such individual or entity has made a significant contribution (determined based on the total value of the farming operation) of (I) land, cash, or equipment, and (II) labor or management to the farming operation.

"(C) For the purpose of this section, the term 'entity' means a corporation, trust, estate, limited partnership, general partnership, joint venture, charitable organization, and, except as provided in subparagraph (A), any other entity or association.

"(D) The Secretary may elect not to attribute payments to a member of an entity as provided for in subparagraph (B)(iv) if it is determined that—

"(i) the interest of the member in the entity is less than 10 percent; and

"(ii) attribution of the payments to the member would have little or no impact on the application of the limitation provided for by this section.".

(b) INELIGIBILITY OF FOREIGN PERSONS.—The Food Security Act of 1985 is amended by inserting after section 1001 (7 U.S.C. 1308) the following new section:

"SEC. 1001A. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

"(a) GENERAL RULE.—Notwithstanding any other provision of law, for each of the 1988 through 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) PERSON THAT IS INELIGIBLE.—

"(1) DEFINITION.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm.

"(2) EXCEPTION.—Notwithstanding the provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments in an amount determined by the Secretary to be representative of the percentage interest of the entity which is owned by citizens of the United States.

"(c) EFFECT.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments, or benefits as the result of the production of a crop of an agricultural commodity, other than the 1988 crop of winter wheat, planted, or commodity program or conservation reserve contract entered into, before the date of enactment of this section.".

(c) REGULATIONS.—

(1) IN GENERAL.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) The provisions of section 1001(5) of this Act shall be applicable in applying the limitation provided for in this section.".

(2) EFFECT.—The amendment made by this subsection shall be effective with respect to contracts entered into on or after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective only with respect to the 1988 through 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, and honey.

EXON (AND OTHERS) AMENDMENT NO. 1258

Mr. EXON (for himself, Mr. BRADLEY, Mr. SANFORD, Mr. CHAFEE, Mr. GLENN, Mr. DIXON, and Mr. DURENBERGER) proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

On page 344 strike section 4504(b) of the amendment.

On page 342, line 1 in section 447(d)(2)(A)(ii) of the Internal Revenue Code of 1986, as added by section 4504(a) of the bill, strike "$25,000,000" and insert "$50,000,000".

KASSEBAUM (AND OTHERS) AMENDMENT NO. 1259

Mrs. KASSEBAUM (for herself, Mr. BOREN, Mr. EVANS, Mr. BIDEN, Mr. BAUCUS, Mr. BUMPERS, Mr. CONRAD, Mr. D'AMATO, Mr. DODD, Mr. EXON, Mr. HOLLINGS, Mr. LEVIN, Mr. SIMPSON, and Mr. WEICKER) proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

Strike out the matter proposed to be inserted and insert:

TITLE IV—SPENDING AND TAX FREEZES

SEC. 401. SPENDING FREEZE.

(a) DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.—

(1) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal year 1988 for major functional category 050 (National Defense) shall be:

(A) New budget authority, $291,300,000,000.

(B) Outlays, $284,100,000,000.

(2) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal year 1988 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(A) New budget authority, $161,000,000,000.

(B) Outlays, $175,300,000,000.

(3) POINT OF ORDER.—It shall not be in order in the Senate or House of Representatives to consider any bill or resolution making appropriations if the enactment of such bill or resolution, as recommended by the respective committee on appropriations, would fail to be consistent with the allocations in paragraphs (1) and (2) of this subsection.

(4) RULEMAKING AUTHORITY.—The provisions of paragraph (3) are enacted by Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) LIMITATIONS ON COST-OF-LIVING INCREASES DURING 1988.—

(1) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in paragraph (2) or (3), no increase shall be made in payments or benefit amounts under any provision of law which would otherwise require such increase to become effective during fiscal year 1988 as a result of changes in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages.

(2) EXCEPTION FOR SUPPLEMENTAL SECURITY INCOME BENEFITS.—Paragraph (1) shall not apply to any payments or benefit amounts under section 1617 of the Social Security Act (relating to supplemental security income benefits).

(3) 2-PERCENT INCREASE FOR INDEXED ENTITLEMENTS.—If a person is entitled under any provision of law to any increase described in paragraph (1), paragraph (1) shall apply only to the extent of the portion of such increase in excess of 2 percent.

(4) NO ENTITLEMENTS.—No person shall be entitled to any increase in payments or benefit amounts under any provision of law if payment thereof is denied by reason of this subsection.

(5) COORDINATION WITH FUTURE YEARS.—Notwithstanding any other provision of law, any change in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages, which would have resulted in any increase in payments or benefit amounts during fiscal year 1988 but for the provisions of paragraph (1) shall not be taken into account for purposes of determining any increase in payments or benefit amounts during fiscal year 1989 or any fiscal year thereafter.

(6) PAYMENTS TO WHICH SUBSECTION APPLIES.—This subsection shall not apply to any payment on or before January 1, 1988.

(7) SPECIAL RULE FOR CERTAIN DISABILITY COMPENSATION.—Payments and benefit amounts under the following provisions shall be treated as described in paragraph (1):

(A) Sections 314, 351(1), 362, 411, 413, and 414 of title 38, United States Code, which were increased by amendments made by title I of the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (Public Law 99-238).

(B) Section 10 of Public Law 85-857 in the case of persons who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) FEDERAL WAGE FREEZE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no increase shall be made in wage or salary compensation amounts paid to any employee of the Federal Government, including Members of Congress, under any provision of law which

would otherwise require such increase to become effective during fiscal year 1988 as a result of changes in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages.

(2) NO ENTITLEMENT.—No employee of the Federal Government, including Members of Congress, shall be entitled to any increase in wage or salary compensation payments amounts under any provision of law if payment thereof is denied by reason of this section.

(3) COORDINATION WITH FUTURE YEARS.—Notwithstanding any other provision of law, any change in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages, which would have resulted in any increase in payments or benefit amounts during fiscal year 1988 but for the provisions of paragraph (1) shall not be taken into account for purposes of determining any increase in payments or benefit amounts during fiscal year 1989 or any fiscal year thereafter.

(d) PAYMENTS FOR INPATIENT HOSPITAL SERVICES AND PHYSICIANS' SERVICES FOR FISCAL YEAR 1988.—

(1) NO APPLICABLE PERCENTAGE INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—Notwithstanding any other provision of law, the applicable percentage increase under section 1886(b)(3)(B) of the Social Security Act for fiscal year 1988 shall be 0 percent.

(2) NO INCREASE IN THE MEI WITH RESPECT TO PAYMENTS FOR PHYSICIANS' SERVICES.—Notwithstanding any other provision of law, for purposes of part B of title XVIII of the Social Security Act, with respect to physicians' services furnished in 1988, the percentage increase in the MEI (as described in section 1842(b)(4)(E)(ii)) shall be 0 percent.

SEC. 402. TAX FREEZE.

(a) 1-YEAR FREEZE IN INDIVIDUAL AND CORPORATE INCOME TAX RATES.—

(1) INDIVIDUALS.—Section 1(h) of the Internal Revenue Code of 1986 (relating to tax schedules for taxable years beginning in 1987) is amended by striking out "1987" in the text and heading thereof and inserting in lieu thereof "1987 and 1988".

(2) CORPORATIONS.—Section 601(b) of the Tax Reform Act of 1986 is amended to read as follows:

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

"(2) TAXABLE YEARS BEGINNING IN 1987 AND 1988.—In the case of a taxable year beginning in 1987 or 1988, section 11(b) of the Internal Revenue Code of 1986 shall be applied as if it reads as follows:

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the taxable income as does not exceed $25,000,

"(2) 16.5 percent of so much of the taxable income as exceeds $25,000, but does not exceed $50,000,

"(3) 27.5 percent of so much of the taxable income as exceeds $50,000, but does not exceed $75,000, and

"(4) 40 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $550,000 for any taxable year, the amount of the tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $15,250.' "

(3) EFFECT OF CHANGES.—

(A) Section 15 of the Internal Revenue Code of 1986 shall not apply to any change in rates under paragraph (2) with respect to a taxable year beginning in 1986 and ending in 1987.

(B) For treatment of taxable years beginning in 1988 and ending in 1989, see section 15 of such Code.

(b) DEDUCTIONS.—

(1) INTEREST.—Section 163(d)(6)(B) of the Internal Revenue Code of 1986 is amended by striking out "60" in the item in the table relating to 1988 and inserting in lieu thereof "35".

(2) PASSIVE LOSSES.—Section 469(l)(2) of the Internal Revenue Code of 1986 is amended by striking out "60" in the item in the table relating to 1988 and inserting in lieu thereof "35".

TITLE V—OTHER PROVISIONS

Subtitle A—Asset Sales

SEC. 501. PREPAYMENT OF RURAL ELECTRIFICATION LOANS.

(a) IN GENERAL.—Section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a) is amended to read as follows:

"SEC. 306A. PREPAYMENT OF LOANS.

"(a) IN GENERAL.—If, on the effective date of this section, a borrower has an outstanding loan made by the Federal Financing Bank and guaranteed by the Administrator of the Rural Electrification Administration under section 306, the borrower may prepay such loan (or any loan advance made thereunder) by paying the outstanding principal balance due on such loan advance if—

"(1) private capital, with the existing loan guarantee (available at the option of the borrower), is used to replace the loan;

"(2) the borrower certifies that any savings from such prepayment will be—

"(A) passed on to its customers;

"(B) in a case of financial hardship, used to improve the financial strength of the borrower; or

"(C) used to avoid future rate increases; and

"(3) the borrower certifies that the borrower will not apply for a loan made by the Administrator of the Rural Electrification Administration or the Federal Financing Bank to refinance the private loan or replace private capital used to prepay a loan advance under this subsection, except as authorized by the Administrator or the Bank, respectively.

"(b) PROCESSING FEE FOR PREPAYMENT.—

"(1) IN GENERAL.—A processing fee shall be assessed against each Rural Electrification Administration borrower who has a request for prepayment of a loan advance from the Federal Financing Bank under this section approved after September 30, 1987.

"(2) ONE-TIME FEE.—The processing fee shall be assessed as a one-time fee due at the time of prepayment on each loan advance prepaid by charging, against the outstanding principal balance of the loan advance—

"(A) 50 basis points; plus

"(B) points equal to 50 percent of the difference between the interest rate on the Federal Financing Bank loan advance being prepaid and the cost of money to the Federal government at the time of prepayment for new Treasury borrowings of the same maturity as the Federal Financing Bank loan advance being prepaid.

"(c) NO ADDITIONAL CHARGES.—No sums in addition to the payment of the outstanding principal balance of the loan advance and a processing fee assessed thereon, as prescribed in subsection (b), may be charged as the result of such prepayment against—

"(1) the borrower;

"(2) the Rural Electrification and Telephone Revolving Fund; or

"(3) the Rural Electrification Administration.

"(d) AMENDMENT OF EXISTING GUARANTEE.—The existing guarantee shall, at the option of the borrower, be amended to include, for the duration of the term of the Rural Electrification Administration guarantee on the Federal Financing Bank loan advance prepaid, the amount of principal balance prepaid on the loan advance plus the amount of the processing fee paid by the borrower and the cost to the borrower of obtaining private capital. Private loans with the Rural Electrification Administration guarantee used to prepay a Federal financing bank loan advance shall not exceed this amount. Such loans shall be made on terms and conditions acceptable to the borrower and the lender.

"(e) ASSIGNABILITY.—A guarantee of a loan advance prepaid under this section with private capital shall be fully assignable and transferable without condition and shall remain available for the remainder of the term of the loan originally agreed to by the Administrator.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall become effective on the date of enactment of this Act.

(2) AGREEMENTS UNDER EXISTING LAW.—In the case of a borrower of an outstanding loan made by the Federal Financing Bank and guaranteed by the Rural Electrification Administration under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936), if the Administrator of the Rural Electrification Administration determined prior to the date of enactment of this Act that such borrower was eligible to prepay, or if such borrower prepaid, an advance on the loan under section 306A of such Act (as in effect prior to the amendment made by subsection (a)), the borrower may prepay any advance received and not repaid by the date of enactment of this Act under any combination of terms and conditions applicable to such prepayments under section 306A of the Rural Electrification Act of 1936 (as in effect prior to the amendment made by subsection (a) or as amended by subsection (a)). No sum in addition to the payment of the outstanding principal balance of any loan advances prepaid shall be charged as the result of the prepayment.

(3) REGULATIONS.—Within 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendment made by this section.

(4) PREPAYMENT FACILITATION.—In issuing regulations to carry out the amendment made by this section, the Secretary shall—

(A) facilitate prepayment of Federal Financing Bank loan advances;

(B) provide for full processing of each prepayment request within 30 days after its submission to the Rural Electrification Administration; and

(C) expect as specifically and directly provided in section 306A of the Rural Electrification Act of 1936, impose no restriction that—

(i) increases the cost to borrowers of obtaining private financing for prepayment under such section;

(ii) delays the full processing of prepayment requests; or

(iii) inhibits the ability of such borrowers to enter into prepayment arrangements under such section.

SEC. 502. RURAL TELEPHONE BANK.

(a) IN GENERAL.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end thereof the following new paragraphs:

"(8) The Rural Telephone Bank shall apply its most current cost of money rate at the time of each advance made under loan commitments approved after the date of enactment of the Agricultural Reconciliation Act of 1987.

"(9) A borrower with a loan from the Rural Telephone Bank may prepay such a loan (or any part thereof by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is made not later than September 30, 1988.".

(b) REGULATIONS.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by subsection (a) within 30 days after the date of enacement of this Act. Such regulations shall implement paragraphs (8) and (9) of section 408(b) of the Rural Electrification Act of 1936 (as added by subsection (a)) without the addition of any restrictions not set forth in such paragraphs.

SEC. 503. SALE OF RURAL DEVELOPMENTS NOTES.

(a) SALES REQUIRED.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $600,000,000 from such sales during fiscal year 1989.

(b) NONRECOURSE SALES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) CONTRACT PROVISIONS.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

(d) ELIGIBILITY TO PURCHASE NOTES.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

(e) LOAN SERVICING.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

SEC. 504. SALE OF RURAL HOUSING LOANS.

(a) REQUIRED SALES TO PUBLIC.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $1,590,000,000 in fiscal year 1988, and $2,350,000,000 in fiscal year 1989 from the proceeds of such sales.

(b) PROCEDURES AND TERMS OF SALES.—

(1) ESTABLISHMENT OF GUIDELINES.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) REPORTS TO CONGRESS.—

(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

(2) REPORTS BY SECRETARY.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

(d) RELATION TO OTHER LAW.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

SEC. 505. SALE OF EXPORT-IMPORT BANK LOANS.

Section 16 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended to read as follows:

"SEC. 16. SALE OF BANK LOANS.

"(a) REQUIRED SALES TO PUBLIC.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $500,000,000 in fiscal year 1988 and $500,000,000 in fiscal year 1989 from the proceeds of such sales.

"(b) PROCEDURES AND TERMS OF SALES.—

"(1) ESTABLISHMENT OF GUIDELINES.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and term applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) REPORTS TO CONGRESS.—

"(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

"(2) REPORTS BY BANK.—The Board of Directors shall submit periodic reports to the

Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

"(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

"(d) SECURITIES LAWS NOT APPLICABLE TO SALES.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to the appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.".

SEC. 506. SALE OF COMMUNITY DEVELOPMENT LOANS.

The Secretary of Housing and Urban Development, under such terms as the Secretary shall prescribe, shall sell Community Development loans in such amounts as to realize net proceeds to the Government of not less than $120,000,000 in fiscal year 1988 and $50,000,000 in fiscal year 1989.

SEC. 507. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 is amended by striking out "$314,000,000" and inserting in lieu thereof "$414,000,000".

SEC. 508. SALE OF BUREAU OF RECLAMATION LOANS.

The Secretary of the Interior, under such terms as the Secretary shall prescribe, shall sell Bureau of Reclamation loans in such amounts as to realize net proceeds to the Government of not less than $130,000,000 in fiscal year 1988.

SEC. 509. SALE OF MEDICAL FACILITIES LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Medical Facilities loans in such amounts as to realize net proceeds to the Government of not less than $40,000,000 in fiscal year 1988.

SEC. 510. SALE OF BUREAU OF HEALTH MAINTENANCE LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Health Maintenance loans in such amounts as to realize net proceeds to the Government of not less than $20,000,000 in fiscal year 1988.

SEC. 511. PUBLIC FACILITIES LOAN SALES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall take such actions as may be necessary to ensure that loans made pursuant to title II of the Housing Amendments of 1955 are sold to the public in amount sufficient to provide a net reduction in outlays of not less than $120,000,000 during fiscal year 1988, and $50,000,000 during fiscal year 1989.

(b) PROCEDURES AND TERMS OF SALES.—The Secretary of Housing and Urban Development shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kinds of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(c) REPORTS TO CONGRESS.—The Secretary of Housing and Urban Development shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this subsection not later than 60 days after the date of enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

Subtitle B—Other Provisions

SEC. 511. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) December 31, 1987, with respect to all such payments; and

(2) January 15, 1987, with respect to payments for physicians' services and durable medical equipment (and other nonphysician services reimbursed on a reasonable charge basis) under part B of such title.

SEC. 512. INCREASE IN PENSION BENEFIT GUARANTY CORPORATION PREMIUM RATES.

(a) GENERAL RULE.—Clause (i) of section 4006(a)(3)(A) of ERISA is amended by striking out "$8.50" and inserting in lieu thereof "the sum of $14 plus the exposure-related premium (if any) determined under subparagraph (E)".

(b) DETERMINATION OF EXPOSURE-RELATED PREMIUM.—Paragraph (3) of section 4006(a) of ERISA is amended by adding at the end thereof the following new subparagraphs:

"(E)(i) The exposure-related premium determined under this subparagraph with respect to any plan for any plan year shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year.

"(ii) The amount determined under this clause for any plan year shall be an amount equal to $6.00 for each $1,000 of unfunded current liability under the plan as of the close of the preceding plan year.

"(iii) For purposes of clause (ii), the term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of the current liability under the plan over the value of the plan's assets determined under section 412(c)(2) of the Internal Revenue Code of 1986 (reduced by any credit balance in the funding standard account) meaning given such term by section 412(l)(8)(A) of the Internal Revenue Code of 1986.

"(iv)(I) Except as provided in this clause, the aggregate increase in the premium payable with respect to any participant by reason of this subparagraph shall not exceed $70.

"(II) In the case of any plan year beginning in a calendar year after 1988, the $70 amount in subclause (I) shall be increased by the percentage (if any) by which the contribution and benefit base in effect during such calendar year under section 230 of the Social Security Act exceeds such contribution and benefit base in effect during 1988.

"(III) If an employer made contributions to a plan during 1 or more of the 5 plan years preceding the 1st plan year to which this subparagraph applies in an amount not less than the maximum amount allowable as a deduction with respect to such contributions under section 404 of such Code, the dollar amount in effect under subclause (I) for the 1st 5 plan years to which this subparagraph applies shall be reduced by $10 for each plan year for which such contributions were made. The $10 amount under the preceding sentence shall be adjusted at the same time and the same manner as provided under subclause (II).

"(v)(I) No additional premium shall be determined under this subparagraph with respect to any plan which has no more than 100 participants on each day during the preceding plan year.

"(II) In the case of a plan to which subclause (I) does not apply and which did not have more than 150 participants on each day during the preceding plan year, the amount of the additional premium under this subparagraph for such plan year shall be equal to the product of such premium determined without regard to this subclause multiplied by 2 percent for each participant in excess of 100.

"(III) For purposes of this clause, all single-employer plans maintained by the same contributing sponsor (or any member of such contributing sponsor's controlled group) shall be treated as 1 plan. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

"(F) CURRENT LIABILITY.—For purposes of subparagraph (E)—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(I) IN GENERAL.—For purposes of clause (i), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(II) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than age, service, compensation, death, or disability, or an

event which is reasonably and reliably predictable (as determined by the Secretary).

"(iii) INTEREST RATES USED.—

"(I) IN GENERAL.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(II) PERMISSIBLE RANGE.—For purposes of this subparagraph the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d) of the Internal Revenue Code of 1986) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed). The Secretary of the Treasury may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of the preceding sentence.

"(iv) CERTAIN SERVICE DISREGARDED.—

"(I) IN GENERAL.—In the case of a participant to whom this clause applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(II) APPLICABLE PERCENTAGE.—For purposes of this clause, the applicable percentage shall be 100 percent, except that the applicable percentage shall be zero in the case of an employee with less than 5 years of service.

"(III) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This clause shall apply to any participant who, at the time of becoming a participant has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

(c) LIABILITY FOR PREMIUM.—

(1) IN GENERAL.—Section 4007 of ERISA is amended by striking out "plan administrator" each place it appears and inserting in lieu thereof "designated payor".

(2) DESIGNATED PAYOR.—Section 4007 of ERISA is amended by adding at the end thereof the following new subsection:

"(e)(1) For purposes of this section, the term 'designated payor' means—

"(A) the contributing sponsor or plan administrator in the case of a single-employer plan, and

"(B) the plan administrator in the case of a multiemployer plan.

"(2) If the designated payor of any single-employer plan is a member of a controlled group, each member of such group shall be jointly and severally liable for any premiums required to be paid by such designated payor. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(d) DEPOSIT OF PREMIUMS INTO SEPARATE REVOLVING FUND.—Section 4005 of ERISA (relating to establishment of Pension Benefit Guaranty funds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of $8.50,

"(B) premiums, penalties, and interest charges collected under section 4006(a)(3)(E), and

"(C) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan which was terminated before January 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

SEC. 513. VETERANS' HOME LOAN PROGRAM.

(a) EXTENSION OF LOAN FEE.—Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

(b) REPEAL OF AUTHORITY TO SELL CERTAIN HOME LOANS WITH RECOURSE.—Section 1816(d) of title 38, United States Code, is amended by striking out paragraph (3).

(c) INAPPLICABILITY OF PROVISIONS.—(1) The amendment made by subsection (a) shall not take effect if a law that makes the same amendment is enacted before the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall not take effect if a law that makes the same amendment is enacted before the date of the enactment of this Act.

GRAMM AMENDMENT NO. 1260

Mr. GRAMM proposed an amendment, which was subsequently modified, to the amendment No. 1254 to the bill (S. 1920), supra; as follows:

Of the language proposed in amendment No. 1254, in section 9001(a)(1)(A), strike "$292,000" and insert in lieu thereof "$291,300";

In section 9001(a)(1)(B), strike "$285,400" and insert in lieu thereof "$284,100";

In section 9001(b)(1)(A), strike "$162,900" and insert in lieu thereof "$161,000"; and

In section 9001(b)(1)(B), strike "$176,800" and insert in lieu thereof "$175,000".

PRESSLER (AND OTHERS) AMENDMENT NO. 1261

Mr. PRESSLER (for himself, Mr. PELL, Mr. WARNER, Mr. STAFFORD, Mr. TRIBLE, Mr. MELCHER, Mr. DASCHLE, and Mr. ROTH) proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill (S. 1920), supra; as follows:

In section 422(e)(1) of the Higher Education Act of 1965, as added by section 6101(a) of the amendment, strike out "or" at the end of subparagraph (D), strike out the period at the end of subparagraph (E) and insert in lieu thereof a semicolon and "or", and add at the end thereof the following:

"(F) the amount required to comply with reserve requirements and other obligations of contracts, as in effect on June 30, 1987.".

MELCHER AMENDMENT NO. 1262

Mr. MELCHER proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill (S. 1920), supra; as follows:

In section 4023 of the amendment, strike "Section" and insert in lieu thereof "(a) IN GENERAL.—Section" and add at the end thereof the following new subsection:

(b) ADJUSTMENTS IN PREMIUM.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall, not later than April 1, 1988—

(1) reduce (in accordance with section 1839(e) of the Social Security Act) the amount of the premium under part B of title XVIII of such Act, otherwise in effect for 1988, to reflect the total amount of reductions in the benefits payable under such part for such year occurring by reason of the amendments made by this Act; and

(2) further reduce such premium by an amount equal to the difference between the amount of such premium (as reduced by paragraph (1)) and the amount of such premium (as so reduced) if established without regard to amounts allocated to the contingency reserve fund.

JOHNSTON AMENDMENT NO. 1263

Mr. JOHNSTON proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

1. Subtitle A of Title II is amended to read as follows:

"Subtitle A—Nuclear Waste

SEC. 2001. That this subtitle may be cited as the "Nuclear Waste Policy Act Amendments Act of 1987".

PROGRAM REDIRECTION

SEC. 2002. The Nuclear Waste Policy Act of 1982 is amended at the end by adding a new title IV to read as follows:

"TITLE IV—PROGRAM REDIRECTION

"FINDINGS, PURPOSE AND DEFINITIONS

"SEC. 401. FINDINGS.—(a) Congress finds that—

"(1) redirection of the program under titles I and II of this Act to provide for the sequential characterization of respository sites and the construction of a monitored retrievable storage facility as part of an integrated nuclear waste management system will result in significant Federal budget savings in fiscal years 1988, 1989, and 1990;

"(2) such a redirection is required if the Secretary of Energy is to carry out in a timely fashion his responsibility under this Act to provide for the permanent disposal of spent nuclear fuel and high-level radioactive waste in a manner that protects the public health and safety and the environment; and

"(3) it is appropriate that the Federal Government provide payments to Indian tribes, States and affected units of local government within whose reservations or jurisdiction, as the case may be, a repository or monitored retrievable storage facility will be cited under this title.

"(b) PURPOSE.—It is the purpose of this title to—

"(1) direct the Secretary of Energy to select a single site that is suitable for characterization for the first repository and to proceed with characterization of that site;

"(2) direct the Secretary to proceed with the construction of a monitored retrievable storage facility as part of an integrated nuclear waste management system; and

"(3) provide for benefits payments from the Waste Fund to any Indian tribe, State or unit of local government within whose reservation or jurisdiction, as the case may be, a repository or a monitored retrievable storage facility may be sited under this title.

"(c) DEFINITION.—For the purposes of this title the term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or a monitored retrievable storage facility. Such term may, at the discretion of the Secretary, include units of local government that are contiguous with such unit.

"FIRST REPOSITORY SITE CHARACTERIZATION

"SEC. 402. (a)(1) On or before January 1, 1989, the Secretary shall select as the preferred site for the first repository one of the sites previously selected for characterization as candidate sites for the first repository that the Secretary determines on the basis of available information to be the most suitable for characterization as a repository. In selecting the preferred site under this subsection, the Secretary shall give primary consideration to—

"(A) prospects for successfully licensing a repository at such site;

"(B) potentially disqualifying factors at the site;

"(C) potentially adverse impacts on the public health and safety and the environment of locating a repository at such site; and

"(D) the estimated cost of characterization, development and operation of repository at such site.

"(2) In the period between the date of the enactment of this section and January 1, 1989, the Secretary shall carry out at the sites previously selected for characterization as candidate sites for the first repository such activities as the Secretary determines would provide information useful in making the selection required under this subsection, including information on potentially disqualifying factors, except that the Secretary shall not initiate construction of an exploratory shaft facility until such time as a preferred site is selected under this subsection.

"(b)(1) Effective on the date of selection of a preferred site for the first repository under subsection (a), the Secretary shall take all those actions required or contemplated under this Act to assure that a repository will be constructed and operated at such site at the earliest practicable date.

"(2) Effective on such date of selection of a preferred site, the Secretary shall suspend work at other sites selected for characterization as candidate sites for the first repository.

"(c) If the Secretary determines that the preferred site for the first repository selected under subsection (a) is not suitable for a repository, the Secretary shall—

"(1) immediately notify interested States and Indian tribes and Congress of such determination;

"(2) suspend all future benefits payments under this title with respect to such site; and

"(3) within 6 months after such determination select a new site as the preferred site for the first repository from the sites remaining of those considered under subsection (a).

"(d) Effective on the date of selection under this section of any site as the preferred site for the first repository, the State in which the site is located shall be eligible to enter into a benefits agreement with the Secretary under section 404.

"(e)(1) Any decision by the Secretary under subsection (a), paragraph (b)(2), or subsection (c) shall be in writing, shall be available to Congress and the public, and is not subject to judicial review except as provided in this subsection.

"(2) Any action for review of a decision by the Secretary may only be brought within 30 days after public notice of the decision.

"(3) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any action brought under this subsection. In reviewing any such action the court shall render its decision within 60 days from the date that the action is filed unless the court determines good cause exists for an extension. In such case the court may extend the time for its decision by not more than 30 days, and such extension may be renewed no more than 2 times.

"(4) In review of any decision under this subsection, the scope of review shall be governed by the provisions of section 706 of title 5 of the United States Code, except that subparagraphs (E) and (F) of paragraph (2) of such section 706 shall not apply.

"(5) Any person entitled to judicial review under the provisions of section 702 of title 5 of the United States Code may bring an action under this subsection.

"(f)(1) The decision of the Secretary to select a preferred site for a first repository under subsection (a) shall include a detailed statement of the basis for such decision and shall be accompanied by an environmental evaluation, as required herein. The environmental evaluation shall include—

"(A) a detailed analysis by the Secretary of the criteria required to be considered under subsection (a);

"(B) a comparative evaluation of the preferred site with the other sites previously selected for characterization as candidate sites for the first repository;

"(C) a description of the decision process by which the preferred site was selected; and

"(D) a summary of, and response to, comment received.

"(2) Before preparing the environmental evaluation, the Secretary shall—

"(A) solicit the comments of the National Academy of Sciences; and

"(B) provide an opportunity for comment by the public.

"(3) For a period of 2 years after the selection of a preferred site under this section the Secretary shall preserve all writings, records of meetings, draft reports and studies, and other documents and recordings prepared by or for employees of the Department of Energy or by or for persons under contract to such Department, relating to the selection of such preferred site and the completion of the environmental evaluation with respect to such selection. Subject to existing law, the Secretary shall make these documents available for inspection by any person requesting to review the documents, at a reasonable time and place. The Secretary shall provide for the photocopying of any such documents at a reasonable fee.

"(g) Nothing in this section affects judicial review of actions of the Secretary, the President, or the Commission taken under titles I or III prior to or subsequent to a decision of the Secretary under subsection (a), paragraph (b)(2), or subsection (c).

"(h) Within 1 year after the selection of any site a a preferred site for the first repository under subsection (a), the Secretary shall report to Congress on the potential impacts of locating a repository at such site, including the recommendations of the Secretary for mitigation of such impacts and a statement of which impacts should be dealt with by the Federal Government, which should be dealt with by the State with State resources, including the benefits payments under section 404, and which should be a joint Federal-State responsibility. The report under this subsection shall include the analysis of the Secretary of the authorities available to mitigate these impacts and the appropriate sources of funds for such mitigation. Potential impacts to be addressed in the report under this subsection shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

"(7) distribution of public lands to allow for the timely expansion of existing or creation of new communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges or railways damaged as a result of the construction, operation and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation and eventual closure of the facility.

"(i)(1) The Secretary, or his designee, shall value land for leasehold or ownership title for purposes of site characterization and respository development in a manner that, in the opinon of the Secretary or such designee, addresses the unique geophysical attributes causing such land to be selected

as a candidate site for deep geologic disposal for high-level radioactive waste and spent nuclear fuel.

"(2)(A) The Secretary, in acquiring private land for site characterization and repository development under this Act, shall, to the extent practicable—

"(i) acquire such private land only after a site characterization plan has been issued under section 113; and

"(ii) minimize the disruption of private use of lands in the vicinity of those acquired.

"(B) Nothing in subparagraph (A) affects the authority of the Secretary to secure leasehold interest, easement, or right of way that the Secretary determines is necessary to carry out the purposes of subsection (a)(2).

"(3) The Secretary shall offer any landowner, or his heirs, first right to repurchase any land previously secured from such landowner for site characterization or repository development, should the site be found unsuitable, and after the site has been fully reclaimed as required under section 113.

"SITING OF MONITORED RETRIEVABLE STORAGE FACILITIES

"SEC. 403. (a) The proposal of the Secretary (EC-1022, 100th Congress) to locate a monitored retrievable storage facility at a site on the Clinch River in the Roane County portion of Oak Ridge, Tennessee, with alternative sites on the Oak Ridge Reservations of the Department of Energy and on the former site of a proposed nuclear powerplant in Hartsville, Tennessee, is hereby annulled and revoked. In carrying out the provisions of this section the Secretary shall make no presumption or preference to such sites by reason of their previous selection.

"(b) During the period between the date of the enactment of this section and January 1, 1989, the Secretary shall conduct a survey and evaluation of three potentially suitable sites in not less than 2 States for a monitored retrievable storage facility. In conducting such survey and evaluation, the Secretary shall consider the extent to which siting a monitored retrievable storage facility at each site surveyed would—

"(1) enhance the reliability flexibility of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act;

"(2) minimize the impacts of transportation and handling of such fuel and waste;

"(3) provide for public confidence in the ability of such system to safely dispose of the fuel and waste;

"(4) impose minimal adverse effects on the local community and the local environment;

"(5) provide a high probability that the facility will meet applicable environmental, health, and safety requirements in a timely fashion; and

"(6) provide such other benefits to the system for the disposal of spent nuclear fuel and high-level radioactive waste as the Secretary deems appropriate.

"(c)(1) The Secretary may, on or before January 1, 1989, select as the site for a monitored retrievable storage facility any site that—

"(A) the Secretary determines to be suitable for a monitored retrievable storage facility; and

"(B)(i) is located in a State where the Governor and the legislature of such State request in writing such selection; or

"(ii) is located on the reservation of an Indian tribe where the governing body of such tribe requests in writing such selection.

"(2) The Secretary may make grants to any State, Indian tribe or unit of local government to support an assessment of the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or government.

"(3) The Secretary shall make every reasonable effort making use of authority under this title and under other law to encourage requests and to secure a site under this subsection.

"(d)(1) If the Secretary selects a site for a monitored retrievable storage facility under subsection (c), the Secretary, consistent with section 141, shall construct and operate such facility as part of an integrated nuclear waste management system and in accordance with applicable agreements under this Act affecting such facility.

"(2) Except as provided in subsection (l), if the Secretary does not select a site under subsection (c), the Secretary, not earlier than January 1, 1989, but not later than October 1, 1989, shall select the site evaluated under subsection (b) that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act. The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under this paragraph. Such notification shall be accompanied by a report setting forth the Secretary's reasons for selecting the site.

"(e)(1) The selection of a site under subsection (d)(2) shall be effective at the end of the 60-day period beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under subsection (d)(2) shall not be effective except as provided under subsection 115(c).

"(2) For purposes of carrying out the provisions of this subsection, references in section 115(c) to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under subsection 116(b) or 118(a) shall be considered to refer to a notice of disapproval under this section.

"(3) Once the selection of a site for a monitored retrievable storage facility is effective under this subsection, the Secretary, consistent with section 141, shall construct and operate such facility as part of an integrated nuclear waste management system and in accordance with applicable agreements under this Act affecting such facility.

"(f)(1) The Secretary shall study the need for and feasibility of 1 or more monitored retrievable storage facilities in addition to the facility authorized in this section. Such study shall examine the desirability of colocating the site of a monitored retrievable storage facility for spent nuclear fuel from civilian nuclear activities with a site at which substantial volume of high-level radioactive waste generated from atomic energy defense activities are located. Such study shall also include the development of a plan for the management of such high-level radioactive waste in a system that includes 1 or more monitored retrievable storage facilities capable of storing both high-level radioactive waste and spent nuclear fuel. The Secretary shall report to Congress by April 1, 1989, on the results of the study under this paragraph.

"(2) If the Secretary determines, on the basis of the study under paragraph (1), that 1 or more additional monitored retrievable storage facilities are in the public interest and are needed to fulfill the responsibilities of the Secretary under this Act, the Secretary shall notify Congress and potentially interested States and Indian tribes of such determination and shall submit to Congress site-specific proposals for the construction of the needed monitored retrievable storage facilities in accordance with the provisions of section 141 of this Act.

"(g) Once selection of a site for a monitored retrievable storage facility is made under subsection (c) or is effective under subsection (e) or upon authorization by Congress of 1 or more sites for monitored retrievable storage facilities under subsection (f), the Indian tribe on whose reservation the site is located, or, in the case that the site is not located on a reservation, the State in which the site is located, shall be eligible to enter into a benefits agreement with the Secretary under section 404.

"(h) The provisions of section 116(c) or 118(b) with respect to grants, technical assistance, and other financial assistance shall apply to the State, to affected Indian tribes and to affected units of local government in the case of a monitored retrievable storage facility in the same manner as for a repository.

"(i)(1) During the period between the date of the enactment of this subsection and October 1, 1988, the Secretary shall conduct a study and evaluation of the use of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such times as a permanent geologic repository has been constructed and licensed by the Commission and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

"(2) In conducting the study under paragraph (1) the Secretary shall—

"(A) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which storage on the sites of civilian nuclear power reactors affects the costs and risks of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

"(B) consider the extent to which amounts in the Waste Fund can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites of civilian nuclear power reactors;

"(C) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

"(D) solicit the views of State and local governments and the public.

"(j)(1) By April 1, 1989, the Secretary shall submit to Congress a report that describes the benefits of storing for at least 50 years spent nuclear fuel compared to the current system design allowing such fuel to

age for 10 years prior to emplacement in a repository. Such report shall describe—

"(A) the changes in design of an integrated nuclear waste management system;

"(B) the effect on cost caused by implementing such long-term storage compared to the present system;

"(C) the effect of long-term storage on the current schedule of the repository program calling for the acceptance of spent fuel in a repository by 2003;

"(D) the increase in repository capacity as a result of reduced thermal load and the possibility of disposing the spent nuclear fuel likely to be produced in the foreseeable future in a single repository;

"(E) the increase in assurance that transportation of aged spent nuclear fuel can be carried out safely; and

"(F) the relative impact on public health and safety and the environment.

"(2) In developing the report under paragraph (1), the Secretary shall consider the long-term storage and disposal practices for spent nuclear fuel and high-level radioactive waste of other nations that generate such fuel or waste.

"(3) The Secretary shall seek public comment on the report under paragraph (1) and shall submit any written comments to Congress as part of the report.

"(k) For purposes of this section 'monitored retrievable storage facility' means a facility described in section 141(b)(1).

"(l)(1)(A) There is established a MRS Review Commission (hereinafter in this subsection referred to as the 'MRS Commission'), which shall consist of three members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(B) Members of the MRS Commission shall be appointed not later than thirty days after the date of the enactment of this subsection from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the Nation's nuclear waste management system.

"(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this paragraph, the MRS Commission shall—

"(i) review the status and adequacy of the Department's evaluation of the systems advantages and disadvantages of bringing such a facility into the national radioactive waste disposal system;

"(ii) obtain comment and available data on the subject from affected parties, including States containing potentially acceptable sites;

"(iii) evaluate the utility of such a facility from a technical perspective; and

"(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

"(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

"(A) repository design and construction;

"(B) waste package design, fabrication and standardization;

"(C) waste preparation;

"(D) the waste transportation system;

"(E) the reliability of the national system for the disposal of radioactive waste;

"(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

"(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the Nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the Nation's electric utilities in building and operating such a facility.

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress between January 1, 1989 and January 20, 1989.

"(4)(A)(i) If the recommendation of the MRS Commission under paragraph (1)(D) is that the national nuclear waste management system should not contain a monitored retrievable storage facility, the Secretary may exercise his authority under subsection (d)(2) unless Congress, within 90 calendar days of continuous session of Congress (as computed for purposes of section 115) after transmission of the recommendation of the MRS Commission under paragraph (3), passes, and there is enacted into law, a resolution disapproving the deployment of a monitored retrievable storage facility as a part of the national nuclear waste management system.

"(ii) Any resolution under this subparagraph shall be introduced within 30 days after the date of transmission of the recommendation of the MRS Commission under paragraph (3). Such a resolution shall be expedited and considered by Congress in accordance with the procedures for consideration of a resolution of repository siting approval under subsections 115(d) through (g), except the 60-day period in section 115(d)(3) shall be shortened to 30 days.

"(B) In all other cases, the Secretary may exercise his authority under subsection (d)(2), after the report and recommendation of the MRS Commission has been transmitted to Congress.

"(5)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistence in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

"(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

"(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

"(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable.

"(C) The MRS Commission shall cease to exist sixty days after the submission to Congress of the Report required under this subsection.

"(D) There are authorized to be appropriated to the MRS Commission to carry out the purposes of this subsection such sums as may be necessary.

"BENEFITS AGREEMENTS

"SEC. 404. (a)(1) The Secretary may enter into a benefits agreement with a State concerning a repository or with a State or an Indian tribe concerning a monitored retrievable storage facility for the acceptance of high-level radioactive waste or spent nuclear fuel in that State or on the reservation of that tribe, as appropriate. The State or Indian tribe may enter into such an agreement only if the State Attorney General or the appropriate governing authority of the Indian tribe or the Secretary of the Interior in the absence of an appropriate governing authority, as appropriate, certifies to the satisfaction of the Secretary that the laws of the State or Indian tribe provide adequate authority for that entity to enter into the benefits agreement. Any benefits agreement with a State under this section shall be negotiated in consultation with affected units of local government in such State.

"(2) Benefits and payments under this title may be made available only in accordance with a benefits agreement under this section.

"(b) A benefits agreement entered into under subsection (a) may be amended only by the mutual consent of the parties to the agreement and terminated only in accordance with section 408.

"(c) The Secretary shall offer to enter into a benefits agreement with the Governor of the State containing the preferred site for the first repository. Any benefits agreement with a State under this subsection shall be negotiated in consultation with any affected units of local government in such State.

"(d) The Secretary shall offer to enter into a benefits agreement relating to a monitored retrievable storage facility with the governing body of the Indian tribe on whose reservation the site for such facility is located, or, if the site is not located on a reservation, with the Governor of the State in which the site is located and in consultation with affected units of local government in such State.

"(e)(1) Only one benefits agreement for a repository under section 402 and only 1 benefits agreement for a monitored retrievable storage facility selected under section 403(c) or 403(d) may be in effect at any one time.

"(2) If Congress authorizes one or more additional sites for monitored retrievable

storage facilities under section 403(f), then only 1 benefits agreement for each such additional monitored retrievable storage facility may be in effect at any one time.

"(f) Decisions of the Secretary under this section are not subject to judicial review.

"CONTENT OF AGREEMENTS

"SEC. 405. (a)(1) In addition to the benefits to which a State, an affected unit of local government or Indian tribe is entitled under titles I and III, the Secretary shall make payments to such State or Indian tribe that is a party to a benefits agreement under section 404 in accordance with the following schedule:

"BENEFITS SCHEDULE

[Amounts in million of dollars]

Event	MRS	Repository
Annual payments prior to first spent fuel receipt	20	50
Upon first spent fuel receipt	50	100
Annual payments after first fuel receipt until closure of the facility	50	100

"For purposes of this subsection, the term—

"(A) 'MRS' means a monitored retrievable storage facility,

"(B) 'spent fuel' means high-level radioactive waste or spent nuclear fuel, and

"(C) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(2) Annual payments prior to first spent fuel receipt under this section shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after first spent fuel receipt until closure of the facility shall be made on the anniversary date of first spent fuel receipt.

"(3) If the first spent fuel payment under this section is made within 6 months after the last annual payment prior to receipt of spent fuel, the first spent fuel payment shall be reduced by an amount equal to one-twelfth of such annual payment for each full month less than 6 that has not elapsed since the last annual payment.

"(4) Notwithstanding paragraphs (1), (2) or (3), no payments under this section may be made before January 1, 1989, and any payment due under this title before January 1, 1989, shall be made on or after such date.

"(5) Except as provided in this section, the Secretary may not restrict the purposes for which the payments under this section may be used.

"(6) Any State receiving a payment under this section shall transfer not less than one-third portion of such payment to affected units of local government. A plan for this transfer and appropriate allocation of such portion among such governments shall be included in the benefits agreement under section 404 covering such payments. In the event of a dispute concerning such plan, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(b) A benefits agreement under section 404 shall provide that—

"(1) a Review Panel be established under section 406;

"(2) the State or Indian tribe waive its rights under title I to disapprove a recommendation of its site for application for a facility construction authorization;

"(3) the parties to the agreement shall share with one another information relevant to the licensing process for the repository or monitored retrievable storage facility, as it becomes available; and

"(4) the State or Indian tribe participate in the design of the repository or monitored retrievable storage facility and in the preparation of documents required under law or regulation governing the effects of the facility on the public health and safety.

"(c) The Secretary shall make payments to the States or affected Indian tribes under this section from the Waste Fund. The signature of the Secretary on a valid benefits agreement under section 404 shall constitute a commitment by the United States to make payments in accordance with such agreement.

"REVIEW PANEL

"SEC. 406. (a) The Review Panel required to be established by section 405(b)(1) of this Act shall consist of a Chairman selected by the Secretary in consultation with the Governor of the State or governing body of the Indian tribe, as appropriate, and 6 other members as follows:

"(1) two members selected by the Governor of the State or governing body of the Indian tribe;

"(2) two members selected by units of general local government affected by the repository or monitored retrievable storage facility;

"(3) one member to represent persons making payments into the Waste Fund, to be selected by the Secretary; and

"(4) one member to represent other public interest, to be selected by the Secretary.

"(b) The members of the Review Panel shall serve for terms of 4 years each and, other than full-time employees of the Federal Government, shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Review Panel, including their necessary travel or other expenses while engaged in the work of the Review Panel.

"(2) Expenses of the panel shall be paid by the Secretary from the Waste Fund.

"(c) The duties of the Review Panel are to—

"(1) advise the Secretary on matters relating to the proposed repository or monitored retrievable storage facility, including issues relating to design, construction, operation, and decommissioning of the facility;

"(2) evaluate performance, as it considers appropriate;

"(3) recommend corrective actions to the Secretary;

"(4) assist in the presentation of State or affected Indian tribe and local perspectives to the Secretary; and

"(5) participate in the planning for and the review of preoperational data on environmental, demographic, and socioeconomic and conditions of the site and the local community.

"(d) The Secretary shall make available promptly any information in the Secretary's possession requested by the Panel or its Chairman.

"(e) The requirements of the Federal Advisory Committee Act do not apply to a Review Panel established under this title.

"SITING A SECOND REPOSITORY

"SEC. 407. (a) While this title is in effect, the Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

"(b)(1) Notwithstanding section 112(b)(1)(C), the Secretary is not required to nominate sites for a second repository or to recommend to the President sites for a second repository.

"(2) Notwithstanding section 114(a)(2), the President is not required to submit to Congress a recommendation of a site for a second repository.

"(c) The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"(d) Upon the date of the enactment of this section the Secretary shall phase out in an orderly manner within 6 months funding for all existing research programs designed to evaluate the suitability of crystalline rock as a potential repository host medium.

"(e) In the event that the Secretary at any future time considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall give consideration as a supplement to the siting guidelines under section 112 to potentially disqualifying factors such as—

"(1) seasonal increases in population;

"(2) proximity to public drinking water supplies, including those of metropolitan areas; and

"(3) the impact characterization or siting decisions would have on lands owned or placed in trust by the Federal Government for Indian tribes.

"TERMINATION

"SEC. 408. (a) The Secretary may terminate a benefits agreement under this title if—

"(1) the site under consideration is disqualified for its failure to comply with guidelines and technical requirements established by the Secretary in accordance with this Act; or

"(2) the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(b) A State or Indian tribe may terminate a benefits agreement under this title only if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act or the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(c) Decisions by the Secretary under this section shall be in writing, shall be available to Congress and the public and are not subject to judicial review.

"MISCELLANEOUS PROVISIONS

"SEC. 409. (a) This title does not affect the provisions of titles I and III of this Act except to establish an alternative procedure for the characterization and development of repositories and the siting of monitored retrievable storage facilities.

"(b) The powers and duties of the Secretary under this Act are not affected by this title except as expressly stated in the title.

"(c) In implementing the authorities contained in this title, the National Environmental Policy Act of 1969 shall not apply, except as provided in subsection (d).

"(d) Notwithstanding subsections (a) and (c), the requirements of title I with respect to the National Environmental Policy Act of 1969 shall apply to a repository or monitored retrievable storage facility covered by a benefits agreement under section 404, except that the provisions of section 114(a)(1)(D) and the provisions of the fourth and fifth sentences of section 114(f) of this Act requiring consideration of 3 sites for purposes of complying with the requirements of the National Environmental Policy Act of 1969 shall not apply.

"(e) The Secretary shall offer to any State, Indian tribe or unit of local government within whose jursidiction a preferred site or a site for a monitored retrievable

storage facility is located under this title an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid out of the Waste Fund.

"OVERSIGHT BOARD

"SEC. 410. (a) Within 30 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences (hereinafter in this section referred to as 'the Academy') for the purpose of establishing an oversight board under the auspices of the Academy to review and evaluate the scientific and technical adequacy of the Secretary's programs under this Act.

"(b) The oversight board established under this section shall consist of an appropriate number of scientists, engineers, and other individuals determined to be qualified by the Academy.

"(c) Activities of the Secretary to be reviewed by the oversight board under this section include—

"(1) activities under section 402(a)(2) relating to the information useful in selecting a preferred site;

"(2) activities under section 402(b)(2) relating to surface based testing at candidate sites that are not selected as the preferred site;

"(3) the site characterization program at the preferred site; and

"(4) such other activities involving significant scientific or technical issues as the Academy finds appropriate.

"(d) The oversight board shall establish procedures for the appropriate involvement in the work of the board by the Secretary, the Commission, affected States and affected Indian tribes. In addition to other reports deemed appropriate by the Academy, the board shall provide an annual report on the status of the programs of the Secretary under this Act that have been reviewed by the board. All reports of the board shall be available to the Secretary, the Commission, and the public.

"(e) The expenses of the oversight board under this section shall be paid from the Waste Fund.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 411. There is authorized to be appropriated from the Waste Fund for activities under the Nuclear Waste Policy Act of 1982—

"(a) in fiscal year 1988, no more than $567,000,000;

"(b) in fiscal year 1989, no more than $545,000,000; and

"(c) in fiscal year 1990, no more than $484,000,000.".

REPORTS

SEC. 2003. The Nuclear Waste Policy Act of 1982 is amended by inserting a new section 10 as follows:

"REPORTS

"SEC. 10. (a)(1) Within 60 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences for a study of major facets of reprocessing of spent nuclear fuel, including economics, the impact of reprocessing on the potential for the proliferation of nuclear weapons and effects of reprocessing on nuclear waste management. The study shall include an analysis of the economics of reprocessing spent nuclear fuel that has been aged for 3 years, 15 years, 30 years, and 50 years, and shall include a sensitivity analysis with respect to the price of uranium and the value of plutonium and uranium recovered in reprocessing. This aspect of the study shall compare the lifecycle cost of a nuclear waste management program involving reprocessing and disposal of vitrified waste with a nuclear waste management program involving direct disposal of spent nuclear fuel.

"(2) The Secretary shall submit the report of the National Academy of Sciences under this subsection to Congress by September 30, 1989.

"(3) Funds for work performed under this section shall be derived from available appropriations from the Waste Fund.

"(b) Within 270 days after the date of the enactment of this section, the Secretary shall report to Congress on subseabed disposal of spent nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development and demonstration with respect to subseabed disposal; and

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

"(c) The comprehensive statement of the Secretary pursuant to section 114 shall include a comparative analysis of the economics of nuclear waste management strategies based on (1) reprocessing spent fuel as a source of new fuel for light water reactors and the disposal of the resultant nuclear wastes and (2) direct disposal of spent fuel. Such analysis shall also compare the advantage and disadvantages of such strategies".

TRANSPORTATION

SEC. 2004. Subtitle A of title I of the Nuclear Waste Policy Act of 1982 is amended by inserting at the end thereof a new section 126 as follows:

"TRANSPORTATION

"SEC. 126. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this subtitle or under subtitle C except in packages that have been certified for such purposes of the Commission.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.

"(d) The Commission shall require actual test on a sample full-scale package, in addition to any simulated tests, tests on scale models, or engineered analysis as part of the certification process of the Commission for package design for the transportation of spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C.

"(e) The Commission shall conduct a survey of the packages for transportation or disposal of spent nuclear fuel or high-level radioactive waste used or intended to be used by other nations and report to Congress by January 1, 1989. The report under this subsection shall describe foreign designs and shall comment on the potential for such designs to meet or exceed applicable Commission regulations or standards for such transportation, storage or disposal.

"(f) There is hereby authorized to be appropriated such funds as may be necessary from the Nuclear Waste Fund, without fiscal year limitation, to the Secretary of Energy for use in the upgrading and construction of road and rail facilities to be utilized in the transportation of spent nuclear fuel and high-level radioactive waste within the State in which a repository is located under this Act. Obligation of such funds by the Secretary shall be on the basis of need as determined by the Secretary after consideration of the availability of alternative sources of funding. Obligations of funds under this subsection may be made only after consultation with the governor of such State.".

SITE APPROVAL

SEC. 2005. (a) Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding the phrase "and in subparagraph (I)" at the end of the fourth sentence thereof;

(2) striking the word "and" at the end of subparagraph (G);

(3) striking the period after subparagraph (H) and inserting in lieu thereof "; and"; and

(4) adding a new subparagraph (I) as follows:

"(I) a statement by the Secretary, after consultation with the Secretary of Defense, with regard to any site recommended under this section, that construction and operation of a repository at such site would not seriously jeopardize the national security by reason of interference with national defense activities, if any, occurring nearby.".

(b) Section 116 is amended by adding a new subsection (e) as follows:

"(e) ADJACENT STATES.—Effective on the date of the enactment of this subsection, a State may exercise the same rights and opportunities to participate in the site selection, review and approval process under this section as the State in which such candidate site selected for characterization for a repository is located if such State—

"(1) borders on the State in which such candidate site is located; and

"(2) lies contiguous to a river, waterway or aquifer whose flow, as determined by the Secretary of the Interior, passes adjacent to or underneath the site, and continues downstream or down gradient to such bordering State.".

CONSIDERATION IN SITING FACILITIES

SEC. 2006. Subtitle A of title I of the Nuclear Waste Policy Act of 1982 is amended

by adding at the end thereof a new section 127 as follows:

"CONSIDERATION IN SITING FACILITIES

"SEC. 127. The Secretary, in siting Federal research projects, shall give special consideration to proposals from States where a repository is located.".

SEC. 2007. In the event that the Secretary undertakes characterization of a site at Yucca Mountain, Nevada, for a nuclear waste repository, under the Nuclear Waste Policy Act of 1982, as amended, such site characterization shall include research to examine the potential effects on such site of continued testing of nuclear weapons at the Nevada Test Site including, but not limited to, whether such testing would cause earthquakes at such site, movement along faults affecting such site, or damage to such a repository if located at such site.

SUBSEABED DISPOSAL

SEC. 2008. (a) OFFICE OF SEABED DISPOSAL RESEARCH.—There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by a Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office of Subseabeds Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within thirty days of the date of enactment of this Act.

(c) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Seabed Consortium described in subsection (d) of this section and other persons.

(d) SEABED CONSORTIUM.—(1) Within 60 days of the date of enactment of this Act, the Secretary shall establish a university-based Seabed Consortium involving leading oceanographic universities and institutions, national; laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

(2) The Seabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995.

(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

(3) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of subparagraph (2).

(e) ANNUAL REPORT.—The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.

(f) FUNDING AUTHORIZATION.—Such funds are hereby authorized to be appropriated as are necessary for carrying out the purposes of this section.

AMENDMENTS TO THE TABLE OF CONTENTS

SEC. 2009. The Table of Contents of the Nuclear Waste Policy Act of 1982 is amended by—

(a) adding after "Sec. 9. Applicability." the following item:

"Sec. 10. Reports.";

(b) adding after "Sec. 125. Termination of certain provisions." the following items:

"Sec. 126. Transportation.
"Sec. 127. Consideration in Siting Facilities."; and

(c) adding the following items at the end thereof:

"TITLE IV—PROGRAM REDIRECTION

"Sec. 401. Findings, Purpose and Definitions.
"Sec. 402. First Repository Site Characterization.
"Sec. 403. Siting of Monitored Retrievable Storage Facilities.
"Sec. 404. Benefits Agreements.
"Sec. 405. Content of Agreements.
"Sec. 406. Review Panel.
"Sec. 407. Siting of Second Repository.
"Sec. 408. Termination.
"Sec. 409. Miscellaneous Provisions.
"Sec. 410. Oversight Board.
"Sec. 411. Authorization of Appropriations."

2. In Title III, strike sections 3002 through 3009 and section 3011, and renumber the remaining sections of Title III accordingly.

TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH THE TERRITORY OR AIR SPACE OF THE UNITED STATES

SEC. 2010. (a) Plutonium in any form may not be transported by aircraft from a foreign nation to any foreign nation through the territory or air space of the United States unless such plutonium is transported in a package that has been certified safe by the Nuclear Regulatory Commission in accordance with subsection (b) and all other applicable law.

(b) The Nuclear Regulatory Commission shall—

(1) conduct an actual crash test of a cargo aircraft traveling at maximum cruising speed, appropriately loaded with sample full scale packages containing test material;

(2) conduct an actual drop test from maximum cruising altitude of sample full scale package containing test material; and

(3) certify that the package, samples of which were tested under paragraphs (1) and (2), is acceptably safe for use in the transport of plutonium by aircraft.

(c)(1) The parameters of the tests under subsection (b) shall be determined by the Nuclear Regulatory Commission after public notice and opportunity for comment.

(2) The results of all tests under this section shall be available to the public.".

DANFORTH AMENDMENT NO. 1264

Mr. DANFORTH proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

Strike Title I, beginning on page 2, line 1, through and including line 5 on page 9.

HOLLINGS AMENDMENT NO. 1265

Mr. HOLLINGS proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

On page 2, line 19, strike the comma and insert in lieu thereof a period.

Strike all from line 20 on page 2 through line 2 on page 3.

On page 3, line 7, strike ", or 5".

On page 3, strike lines 8 through 9 and insert in lieu thereof "of".

Strike all from line 18 on page 6 through line 10 on page 7.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 1266

Mr. MOYNIHAN (for himself, Mr. DOLE, Mr. MURKOWSKI, Mr. NUNN, Mr. D'AMATO, Mr. BUMPERS, Mr. STAFFORD, Mr. GORE, Mr. MITCHELL, Mr. KERRY, Mr. SIMON, Mr. DOMENICI, and Mr. BYRD) proposed an amendment to the bill S. 1920, supra; as follows:

At the end of the bill add the following:

TITLE —NATIONAL ECONOMIC COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. . There is hereby established the National Economic Commission (hereafter in this title referred to as the "Commission").

MEMBERSHIP

SEC. (a)(1). The Commission shall be composed of twelve members until the meeting of the Presidential Electors in December 1988 when it shall be expanded to fourteen members:

(A) two citizens of the United States appointed by the President;

(B) one Senator and two citizens of the United States appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate;

(C) one Senator and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate;

(D) one Member of the House of Representatives and two citizens of the United States appointed by the Speaker of the House of Representatives;

(E) one Member of the House of Representatives and one citizen of the United States appointed by the Minority Leader of the House of Representatives;

(F) two citizens of the United States appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(2) Individuals appointed under paragraph (1)(A) may be officers or employees of the Executive Branch or may be private citizens.

Individuals who are not members of Congress, and are appointed under subparagraphs B, C, D, E and F of paragraph 1 shall be individuals who—

(A) are leaders of business or labor or persons with distinctive qualifications or experience, and

(B) are not officers or employees of the United States.

SEC. . (a) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) The Commission shall elect a Chairman from among the members of the Commission.

(c) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

FUNCTIONS OF THE COMMISSION

SEC. . (a) The Commission shall conduct a comprehensive study and review of the elements of Federal policy that have resulted in the national debt and budget deficit.

(b) The Commission shall make specific recommendations regarding:

(1) methods to reduce the deficit, promote economic growth, and encourage savings and capital formation;

(2) a means of ensuring that the burden of achieving our deficit reduction goals is equitably distributed and not borne disproportionately by any one economic group, social group, region or state.

(3) the current and prospective economic factors and developments in the United States that should be taken into account in making economic policy and increasing international competitiveness; and

(4) the institutional arrangements required to achieve the approrpriate coordination, within the United States, for the making and implementation of economic policy.

(c)(1) The commission shall submit to the President and to the Congress by no later than March 1, 1989, a final report on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action which the Commission considers advisable.

(2) Any recommendation made by the Commission to the President and to the Congress must be adopted by a majority vote of the members of the Commission who are present and voting.

POWERS OF THE COMMISSION

SEC. (a) The Commission may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission is authorized to request from the heads of executive and legislative departments, agencies, establishments or instrumentalities of the Federal Government such information as the Commission may require for the purpose of this title, and each such department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, and subject to the exceptions set forth in the Freedom of Information Act, 5 USC 522, such information, suggestions, estimates, research, surveys, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall to the extent possible, and subject to his discretion make any of the facilities and services of such department, agency, or instrumentality available to the Commission and to the extent possible and subject to his discretion detail any of the personnel of such department, agency, or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this title, provided that any expenses of the Commission incurred hereunder shall be subject to the limitation on total expenses set forth in section 6(b) of this title.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

The Commission is authorized, to such extent and in such amounts as are provided in appropriation Acts, to enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title, subject, however, to the limitation on total expenses set forth in Section 6(b) of this title.

The Commission shall be considered an "advisory committee" within the meaning of the Federal Advisory Committee Act 5 USC App. 2, 3(2)

(4) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission subject to the limitation on total expenses set forth in Section 6(b) of this title shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, U.S.C., governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairman deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(5) Service of an individual as a member of the Commission, or employment of an individual by the Commission, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, U.S.C., or comparable provisions of Federal law.

COMPENSATION OF MEMBERS

SEC. . (a) Members of the Commission shall serve without any additional compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available therefore.

(b) The Commission shall have a staff headed by an Executive Director appointed by the Chairman. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

The total expenses of the Commission shall not exceed $1 million. Prior to the termination of the Commission, pursuant to Section 7 of this title, the General Accounting Office shall conduct an audit of the Commission's financial books and records to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

TERMINATION OF COMMISSION

SEC. . The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

DECONCINI AMENDMENT NO. 1267

Mr. DECONCINI proposed an amendment to the bill S. 1920, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . EXTENSION OF ARIZONA HEALTH CARE DEMONSTRATION PROJECT.

(a) RENEWED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, but subject to subsections (b) and (c) of this section, the Secretary of Health and Human Services (in this section referred to as the "Secretary") upon application shall renew until September 30, 1989, approval of demonstration project number 11-P-98239/9-05 ("Arizona Health Care Cost Containment System—AHCCCS—A Statewide approach to cost effective health care financing"), including all waivers granted by the Secretary under such section 1115 as of September 30, 1987.

(b) TERMS AND CONDITIONS.—The Secretary's renewed approval of the project under subsection (a) shall—

(1) subject to subsection (c), be on the same terms and conditions that existed between the applicant and the Secretary as of September 30, 1987; and

(2) remain in effect through September 30, 1989, unless the Secretary finds that the applicant no longer complies with such terms and conditions.

(c) PERMITTING ADDITIONAL WAIVERS AND COVERAGE.—Nothing in this section shall be construed to prevent the applicant from seeking approval, in due course, from the Secretary—

(1) for additional waivers under section 1115 of the Social Security Act,

(2) for coverage of additional optional groups, and

(3) for coverage of long-term care and other services which were not covered as of September 30, 1987.

BREAUX AMENDMENT NO. 1268

Mr. BREAUX proposed an amendment to the bill S. 1920, supra; as follows:

At the end of Title III, add the following new section:

"SEC. . Notwithstanding the limitation provided for in the third sentence of Section 3 of the Tennessee Valley Authority Act of 1933, as amended, the Tennessee Valley Authority is hereafter authorized to spend power revenues to pay salaries that exceed such limitation to not more than 25 key employees, to be designated by the Tennessee Valley Authority Board of Directors on the basis of the need to attract or retain such employees in the management of the Authority's nuclear power operations, provided that the total amount of such salary paid in

excess of such limitation shall not exceed $900,000 per year, said amount to be adjusted by the Board annually for inflation in the cost of living from the average for the calendar year 1987.".

HEINZ AMENDMENT NO. 1269

Mr. CHILES (for Mr. HEINZ) proposed an amendment to the bill S. 1920, supra; as follows:

Strike subsection (k) of section 4041 of the amendment.

RUDMAN AMENDMENT NO. 1270

Mr. CHILES (for Mr. RUDMAN) proposed an amendment to the bill S. 1920, supra; as follows:

Strike subsection (b) of section 5001 and insert in lieu thereof the following:

"(b) CERTAIN PAY ADJUSTMENTS NOT APPLICABLE TO MEMBERS OF CONGRESS, AND OTHER SENIOR EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCH OFFICERS.—

(1) For any pay period occurring in the fiscal year ending September 30, 1988, no adjustment in rates of pay made pursuant to section 5305 of title 5, United States Code, or the provisions of subsection (a) of this section, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for the office or position as of September 30, 1987 if, as of such date, such rate (or maximum rate) is—

(A) fixed at a rate which is equal to or greater than the rate of basic pay for Level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(B) limited to a maximum rate which is equal to or greater than the rate of basic pay for level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(2) No rate of pay for any office or position shall be increased after September 30, 1988, based on any increase by an adjustment that would have been received but for the provisions of paragraph (1), unless such increase is provided pursuant to a law enacted after the date of enactment of this Act.

HATCH (AND KENNEDY) AMENDMENT NO. 1271

Mr. CHILES (for Mr. HATCH, for himself and Mr. KENNEDY) proposed an amendment to the bill S. 1920, supra; as follows:

Section 1891 of the Social Security Act, as added by the amendment made by section 4021(i)(1)(A) of the amendment, is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "(1)",

(B) by striking "The" and inserting in lieu thereof "Subject to subparagraph (B), the", and

(C) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section."; and

(2) in paragraphs (1) and (2) of subsection (b), by striking "338D" each place it appears in such paragraphs and inserting in lieu thereof "338E".

Section 1915(c) of the Social Security Act, as added by the amendment made by section 4021(i)(2)(B) of the amendment, is amended by striking "338D" and inserting in lieu thereof "338E".

Section 4021(i)(3) of the amendment is amended—

(1) by striking "(3)(A)" and inserting in lieu thereof "(3)",

(2) by striking "338D(b)(1)" and inserting in lieu thereof "338E(b)(1)", and

(3) by striking subparagraphs (B) and (C) and inserting in lieu thereof the following new subparagraph:

(B) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

BYRD (AND OTHERS) AMENDMENT NO. 1272

Mr. CHILES (for Mr. BYRD, Mr. DOLE, Mr. CHILES, Mr. DOMENICI, Mr. BENTSEN, Mr. STENNIS, Mr. JOHNSTON, and Mr. HATFIELD) proposed an amendment to the bill (S. 1920), supra; as follows:

Strike section 9010.

On page 714, line 7, strike "section" and insert "title".

BENTSEN AMENDMENT NO. 1273

Mr. CHILES (for Mr. BENTSEN) proposed an amendment to the bill (S. 1920), supra; as follows:

In section 4033 of the amended bill, strike subsection (c) and insert in lieu thereof the following:

(c) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) shall apply with respect to services furnished on or after January 1, 1988.

(2) The amendment made by subsection (b) shall become effective on January 1, 1990.

Section 4052(c)(1) of the amended bill is amended by striking "has not attained the age of 6 (or any age designated by the State that exceeds 6 but does not exceed 8)" and inserting in lieu thereof "is age 6 or under (or is any age designated by the State that exceeds 6 but does not exceed 8)".

Section 1915(d)(5)(B) of the Social Security Act, as added by section 4101(a)(1)(B) of the amended bill, is amended in clauses (i) and (ii) by striking "7 percent" each place it appears in such clauses and inserting in lieu thereof "7 percent times the number of years beginning after the base year and ending before the waiver year involved".

In section 1902(a)(10)(A)(ii)(XI) of the Social Security Act, as added by section 4056 of the amended bill, after "as established by the State" insert "pursuant to standards that are more restrictive than the standards for supplementary security income benefits under title XVI".

In section 4107 of the amended bill, strike "shall not impose any reductions in payments to States pursuant to section 1903(u) of the Social Security Act for any calendar quarter beginning before July 1, 1988" and insert in lieu thereof "shall not, after September 30, 1987 and prior to July 1, 1988, impose any reductions in payments to States pursuant to section 1903(u) of the Social Security Act (or pursuant to similar provisions of law in effect prior to the enactment of section 1903(u))"

HATFIELD AMENDMENT NO. 1274

Mr. CHILES (for Mr. HATFIELD) proposed an amendment to the bill (S. 1920), supra; as follows:

At the appropriate place, add the following new section:

SEC. . WHEAT ACREAGE DIVERSION.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 is amended—

(1) in clause (i) by striking out "and (IV)" and inserting in lieu thereof "(IV), and (V)"; and

(2) in clause (ii)—

(A) by striking out "and (IV)" in subclause I and inserting in lieu thereof "(IV), and (V)"; and

(B) by adding at the end thereof the following new subclause:

"(V) Effective for the 1988 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the producers on the farm are prevented from planting such acreage, if intended for wheat, to wheat for harvest in 1988 because of a drought in 1987 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster.".

DODD (AND OTHERS) AMENDMENT NO. 1275

Mr. CHILES (for Mr. DODD, for himself, Mr. WEICKER, and Mr. MOYNIHAN) proposed an amendment to the bill (S. 1920), supra; as follows:

Strike section 4086 of the bill and insert in lieu thereof the following:

SEC. 4086. WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.

Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "Temporary" in the heading; and

(2) by striking "for hospice care provided before October 1, 1988,".

EVANS (AND ADAMS) AMENDMENT NO. 1276

Mr. CHILES (for Mr. EVANS, for himself and Mr. ADAMS) proposed an amendment to the bill S. 1920, supra; as follows:

At the appropriate place in the insert the following new section:

"SEC. . DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

"(a) IN GENERAL.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Inde-

pendence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) NATURE OF PROJECT.—In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May, 1987.

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the program, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, if the application review process is concerned, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals which may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State and subsequent changes in benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) The Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project; and

"(B) The project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) FUNDING.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, which was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) PROJECT APPLICATION.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant, such application shall—

"(A) also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be mem-

bers of a household during the period of such participation.

"(e) WAIVER.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) which (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) CONSTRUCTION.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) PROJECT AUDITS.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) EVALUATION.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

MELCHER AMENDMENT NO. 1277

Mr. CHILES (for Mr. MELCHER) proposed an amendment to the bill S. 1920, supra; as follows:

FIXED THREE-YEAR RECYCLE PERIOD

The bill is amended as follows:

(1) On page 43, line 3, the phrase "a period set by the Secretary not to exceed" is deleted;

(2) On page 43, lines 24 through 25, the phrase "the Secretary under" is deleted.

INOUYE (AND OTHERS) AMENDMENT NO. 1278

Mr. CHILES (for Mr. INOUYE, for himself, Mr. BURDICK, Mr. SIMON, and Mr. BINGAMAN) proposed an amendment to the bill S. 1920, supra; as follows:

SECTION 1. CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES.

(a) MEDICARE CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician," and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) MEDICAID CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting in lieu thereof "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting in lieu thereof "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician,"; and

(2) in subparagraph (B) by striking "a physician;" and inserting in lieu thereof "a physician, or, in the case of skilled nursing facility services or intermediate case facility services, a physician, or nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician with a physician;".

(c) SUPERVISION OF HEALTH CARE FURNISHED IN SKILLED NURSING FACILITIES.—Section 1861(j)(4) of such Act (42 U.S.C. 1395x(j)(4)) is amended—

(1) in subparagraph (A) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,".

(d) DEFINITION.—

(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new paragraph:

"Nurse Practitioner and Clinical Nurse Specialist

"(ff)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) is master's prepared in nursing; or

"(ii) holds a masters degree in a related field and is certified or certified eligible by a national professional organization; or

"(iii) has completed a nurse practitioner continuing education program and is certified or certified eligible.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term nurse practitioner" and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner".

(e) EFFECTIVE DATE.—

(1) The amendments made by subsections (a), (c), and (d) of this section shall apply to items and services furnished on or after the date of enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance provided on or after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 2. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) PAYMENT OF BENEFITS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395(a)(2)) is amended—

(1) in subparagraph (B) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)",

(2) in subparagraph (C) by striking "and",

(3) in subparagraph (D) by inserting "and" after "tests,", and

(4) by adding at the end thereof the following new subparagraph:

"(E) with respect to items and services described in section 1861(s)(2)(L), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10)."

(b) CONTRACTS WITH CARRIERS.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(13) In providing payment for the items and services described in section 1861(s)(2)(L), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality.".

(c) DEFINITION.—Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by adding "and" at the end of subparagraph (K), and

(3) by adding at the end thereof the following new subparagraph:

"(L) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) CONFORMING CHANGE.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection (s)(2)(L)" before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items

and services furnished on or after the date of enactment of this Act.

SEC. 3. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in paragraph (5)—

(1) by inserting "(A)" after the paragraph designation; and

(2) by striking "elsewhere;" and inserting in lieu thereof "elsewhere; and (B) services furnished in an intermediate care facility or skilled nursing facility by a nurse practitioner or clinical nurse specialists (as defined in section 1861(ff)(1)) working in collaboration with a physician;".

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance provided on or after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 4. The Secretary shall issue such rules and regulations which will ensure that this provision is implemented in a budget neutral manner. The Secretary is authorized to reduce the levels of payments that would otherwise be paid to ensure budget neutral implementation.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be allowed to meet during the session of the Senate Thursday, December 10, 1987, to continue hearings on S. 1886, the Financial Modernization Act of 1987, and S. 1891, the Financial Services Oversight Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 10, 1987, in open session to consider the nomination of Kenneth P. Bergquist to be Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 10, 1987, to hold a nomination hearing for Richard H. Melton to be Ambassador to Nicaragua.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unaninous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on December 10, 1987, at 2 p.m. to hold oversight hearing on the modified final judgment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, December 10, beginning at 2 p.m., to conduct a hearing on S. 1840, a bill to amend the Refuge Administration Act to designate the coastal plain of Arctic National Wildlife Refuge as a wilderness, and related matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LABOR

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, December 10, 1987, at 2:30 p.m. to conduct a hearing on S. 1346, "Performing Arts Labor Relations Amendments."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on December 10, 1987, to hold a hearing on computer reservation systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND AND ENVIRONMENTAL OVERSIGHT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Environmental Oversight, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, December 10, to conduct a hearing to examine the question of delays and inefficiencies in the Superfund Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PRESIDENT'S "MINIONS AND FAVORITES"

● Mr. METZENBAUM. Mr. President, in light of our celebration of the bicentennial of the signing of the Constitution, I would like to take a moment to mention an interesting book that examines its history. "To Form a More Perfect Union," by Willard Weiss, combines both historical research with keen analysis to reveal much about the actual working of the Constitution. By looking at the Constitution through the eyes of national leaders from the past 200 years, Weiss offers many interesting insights into the inherent strengths and weaknesses of this important document.

Perhaps the most important point made in this book is reflected in a comment made by George Mason. Mason refused to sign the Constitution because he feared that it created a government run by "minions and favorites." Weiss points out that subsequently, these minions and favorites, mostly top Presidential aids, have often acted on the President's behalf, even without his knowledge or consent.

This problem became all too clear this summer as we all witnessed the proceedings of the Iran-Contra hearings. One of the key questions that was asked was: Did the President know, and if so, when did he know?

In the conduct of our most sensitive foreign policy, the President must be fully aware of the design and execution of such policy. Sadly, however, this President's "minions and favorites" have almost entirely taken over the policymaking process, often excluding the President from this important process. George Mason's comments were, indeed, prophetic.

Mr. President, this book makes interesting reading for all those in search of a bright, new perspective on our Constitution.●

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

● Mr. DECONCINI. Mr. President, just about a year ago this country was shocked to learn the United States had sold arms to Iran, a prime sponsor of international terrorism, whose assistance made possible terrorist attacks resulting in the deaths of U.S. citizens in Lebanon and elsewhere. These arms sales were carried out in direct contravention of established U.S. policy.

This alarming news was closely followed by the revelation that proceeds from these arms sales were used to fund the Contras. The legality of these acts is highly questionable, but there is no doubt that the intent of

U.S. law was violated and our democratic processes subverted; the rule of men was substituted for the rule of law. In both instances, because the law was circumvented and the Congress, as well as foreign service and intelligence professionals, were ignored, our democracy was jeopardized and U.S. foreign policy damaged.

In today's dangerous world the United States needs a strong, effective intelligence capacity upon which to build and carry out its foreign policy goals. These goals can best be achieved if the procedures governing the initiation and execution of intelligence activities are spelled out in clear and concise terms.

While recent executive branch action has produced guidelines which greatly diminish the ambiguities which previously existed, such guidelines require the force of law to ensure they will be binding on the intelligence activities not only of this administration, but on those which follow as well.

Congressional notification of covert actions, or special activities, emerged as a central issue of the Iran-Contra controversy. Had Congress been notified, such an ill-conceived policy might have been averted. There are and have been numerous covert activities for which appropriate notification of the Congress, through its Intelligence Committees, has been made without any improper disclosures.

Public support of any government initiative is essential to its success. As the branch of Government most closely responsible to the citizens of this country, it is the Congress which is in the best position to judge popular support of Government policy. Therefore, the law must be lucid about when and who in the Congress should be notified of a planned covert action.

In October, I joined Senator COHEN in cosponsoring S. 1721, a bill designed to strengthen congressional oversight of intelligence activities by giving the force of law to the guidelines recently established by the President. This bill unequivocably sets forth the responsibilities of both the President and the Congress regarding covert activities. The President would be authorized, by statute, to carry out covert activities, but such activities would be specifically prohibited from violating any U.S. law.

This legislation, through its strengthening and delineation of the congressional oversight process, would protect this country against a recurrence of the events which have so painfully unfolded over the past year.

Specific provisions of S. 1721 address the issue of congressional notification by requiring, except in the most extraordinary circumstances, when events require the President's immediate response, that at least the leadership of the intelligence committees and the Congress be notified within 48 hours of the finding being signed by the President. The bill also would require consultation between the President or his representatives and the intelligence committees prior to the initiation of a covert activity. Retroactive findings would be prohibited, and third party involvement, such as that of a foreign country, as well as whatever agency or department of the U.S. Government is charged with executing the activity, must be identified.

Through the establishment of a comprehensive system for congressional notification of planned covert activities, this legislation would prevent the abuse of power which characterized the sale of arms to Iran and the diversion of profits from those sales to the Contras and private entrepreneurs.

INDEPENDENT INSPECTOR GENERAL AT CIA

I was also pleased to join Senator SPECTER in sponsorship of his bill, S. 1818, the National Security Reform Act, which would establish for the first time an independent office of inspector general at the Central Intelligence Agency, a post which would both enhance the accountability of the CIA and act to deter abuses, such as those which occurred as a result of the CIA's clandestine support of arming the Contras.

As described in the congressional committees' report on its investigation of the Iran-Contra affair, the CIA's inspector general "appears not to have had the manpower, resources, or tenacity to acquire key facts uncovered by other investigations."

Even if the CIA's present IG system were reinvigorated with increased resources and a more robust commitment to its task were made, such an internally appointed IG would lack the true independence necessary for real accountability.

The independently appointed inspector general created by this bill would provide the Congress, through its intelligence committees, as well as the executive branch, through its reviews of CIA programs and accounts, with reliable and impartial reports.

Under the bill, the inspector general would be appointed by the President, subject to Senate confirmation. The reports of this inspector general would be submitted to the Intelligence Committee at least on a semiannual basis. The bill also includes safeguards to protect national security, allowing the Director of Central Intelligence to stop an investigation if he determined an ongoing operation was involved or that national security was jeopardized. In either instance, the Intelligence Committees would be provided with the DCI's rationale for taking such action within 7 days.

Like S. 1721, this bill also tightens the procedures for congressional notification of covert activities in addition to establishing criminal penalties for any Federal employee who willfully provides false information to a committee or subcommittee of the Congress.

For some time now, the Intelligence Committee has been considering legislation and other measures designed to improve its ability to fulfill its oversight obligations. Because the Senate depends on the Intelligence Committee as its primary source of information about the activities of the intelligence community, this committee must have the tools adequate to perform its task. These two bills would not only give the committee those tools, but the opportunities for abuses of power would be restricted and the environment in which our foreign policy objectives could thrive and our democratic institutions prosper would be enhanced as well.●

INFORMED CONSENT: MICHIGAN

● Mr. HUMPHREY. Mr. President, I ask that three letters be entered into the CONGRESSIONAL RECORD following my remarks. As my colleagues know, each day I present the testimonial letters of women who have experienced abortions in the past. Their experiences make them uniquely qualified to render opinions on the need for informed consent legislation. Although the Supreme Court has decided that every woman has a constitutional right to abort her child throughout all 9 months of her pregnancy, the Court did not revoke the freedom of the woman to choose life for her baby. This freedom of choice is impeded by the real situation of abortion on demand. S. 272 and S. 273 will restore the basic rights of pregnant mothers as they struggle to make the best decisions to deal with the lives of their children and themselves.

The letters follow:

JUNE 8, 1986.

DEAR SENATOR GORDON HUMPHREY: On January 12, 1979, I went behind the closed doors of the abortion chamber and had an abortion which I really did not want. I received poor counseling—mostly I was told what a safe procedure it was and that it would just remove a mass of cells. I asked if it was safe and the lady who owned the abortion chamber said it was 99 percent safe. I even asked about complications. The only one she mentioned was a missed abortion and the fact that they would do another abortion on the next check up in that event.

On the day I had my check up in February of 1979, the abortionist told me everything was fine and they had removed the "products of conception." He asked if I had any questions. I asked why I still felt pregnant. He said this was because of the hormonal change in my body.

On March 29, 1979, I went back again for another check up. The abortionist then said I probably had a cancerous tumor that comes from having an abortion. I asked if it could be the baby. He said definitely not and even internally examined me twice. In September of 1979, I had a caesarian section

to bring into this world a baby boy that the abortionist missed—Praise the Lord!

Thank you for caring about the mothers who feel their pregnancies are a problem. They need to be informed about fetal development and all the things that I was never told.

LINDA VANDER VELDEN,
Wisconsin Director,
Women Exploited by Abortion.

JULY 1986.

DEAR SENATOR: I'm writing to support your efforts to inform women about abortion and what it entails. When I was seventeen, I became pregnant. I was scared and so was my boyfriend. We didn't know what to do. This was not a subject anyone talked about. I looked in the phone book and found a clinic that gave pregnancy tests and did abortions. So I made an appointment with the abortion clinic.

I got there and there was a room full of young women. I was crying out of fear and shame. No one looked at you, everyone kept their heads down hoping not to see anyone they knew. First there was the pregnancy test confirming that I was pregnant. Next you gave them your $180 and you would see a "counselor" before going in to the doctor's room.

The counselor asked if I was on any birth control and if I wanted some. I was so upset that she began counseling me, telling me some women use abortion as a form of birth control, some have ten or twelve and can still become pregnant. This did make me feel better knowing that just one abortion wouldn't be bad if some women have ten or twelve. Nothing was mentioned about the baby that was inside me. No information on the risks I was taking to my body and future child bearing.

I am now twenty-four and married with a child. I'm very lucky and thankful. But I have since learned the truth of what abortion does to the child in your womb and the risks involved. I feel that every woman should be fully informed of what happens in an abortion. I thank you for your concern and time.

Sincerely,

MRS. LESLIE A. DENARDO,
E. Lansing, MI.

JULY 1986.

DEAR SIR: Here is the experience of my abortion which has set my energies toward informing girls and women that deciding on an abortion does not eliminate the fear of being pregnant nor does it diminish the fact that you are a mother. Aborting my baby caused me much sorrow—many nights I would cry myself to sleep. I began to see a psychiatrist to help me deal with it.

On February 2, 1984, I had my first pregnancy aborted in which I was misled to believe that it was my only alternative. I was single, twenty-two, and at the prime of my life. I made a phone call to a local clinic. I can recall only two questions that were asked: (1) what my name was, and (2) if this was my first pregnancy. I was told that it would cost $245 and to bring cash only. I would have to bring someone with me to drive home after the abortion.

At the doctors office, I was led to a room and left alone for ten minutes. Two medical personnel came in and one of them estimated that I was about three months along. I was given a free, one month supply of birth control pills, and they asked me why I wanted the abortion. I answered that I had just moved to Maine from Arkansas, and I felt alone. I also thought that it would hurt my parents to know. I began to cry. I was handed a form to sign; I do not recall any of the questions or statements, only that I was agreeing to the abortion. I was given a shot of Valium and was told that the suction method would used, causing some discomfort.

During the abortion, I remember wanting to sit up because I was having severe stomach cramps, but one of the assistants held my shoulders down. I remember that the one who was performing the abortion said, "Its all over with," and left the room. The assistant told me not to try to stand for awhile and then she left too. I sat up and saw a large glass canister. It finally dawned on me that my baby was in it. I kept saying over and over, "My God, my God!" Someone came into the room and covered the canister with a cloth and took it out, leaving me alone again. I dressed up in the numbness of the Valium and with the shock of knowing the reality of the abortion. I walked unassisted from the room to the waiting room barely able to focus my eyes to find my friend in the lobby.

It took a very long time for me to recover mentally and emotionally. The self confidence that I once had was only rebuilt through outside sources. I got pregnant soon after the abortion and maybe it was to fill the void in my life. I made another appointment for an abortion, but this time a friend and a family member supported me by accepting my situation and by offering a helping hand. I later became aware of programs which can assist financially. It was knowing that I wasn't alone and the realization of how precious my baby was that brought joy to me during my months of pregnancy.

I am still single, but I am happy and I enjoy watching my child grow from one stage to the next. I can't imagine what my life would be like if my little girl Jennifer had been aborted from my life.

ANDREA ROGERS,
E. Lansing, MI. ●

SALUTE TO JACK STACKPOOL

● Mr. DURENBERGER. Mr. President, more than three decades have passed since I graduated from St. John's University, but I still remember the aggressive ballhandling and take-charge leadership of "fellow Johnny," Jack Stackpool.

Jack was one of those unique student-athletes St. John's has become known for. He is a great inspiration to the students he has coached. And, I am proud to say, he is a good friend.

Jack Stackpool's impressive résumé was enhanced, Mr. President, through Jack's induction into the Minnesota Coaches' "Hall of Fame." Jack was inducted into this prestigious group of retired coaches on November 6 at a banquet in Minneapolis, along with Bill Selisker of Crosby-Ironton, Walt Williams of Minneapolis Southwest, and the late Ted Peterson, who was a long-time and well-known sportswriter.

Although he has retired from coaching after 25 years, Jack is still a social studies teacher and athletic director at Glenwood High School. Previously, he taught and coached at Wabasha and Foley.

Jack has always been willing to give of his time to his profession, having served as president of the State coaches association, game manager for the first two State high school all-star basketball games, and as district and regional representative to the Minnesota State High School League.

Mr. President, because of his outstanding contributions to the education and athletic accomplishments of young athletes over more than a quarter century, I ask that a letter from me to the Minnesota Coaches Association and an article on Jack Stackpool from the West Central Tribune in Willmar, MN, be printed in the RECORD.

The material referred to follows:

NOVEMBER 6, 1987.

Mr. JACK STACKPOOL, Mr. BILL SELISKER, Mr. WALT WILLIAMS, Mrs. TED PETERSON, c/o Minnesota Coaches Association, Minneapolis, MN.

DEAR FRIENDS: It's an honor for me to extend greetings and my personal congratulations as you are inducted into the Minnesota Coaches "Hall of Fame."

As the son of a college athletic director, I saw at a very early age the benefits of participation in school sports. And, as the father of four very sports-minded sons, I've been reminded over and over again how much coaches contribute to the lives of the student/athletes they work with. These contributions are made both to physical fitness and athletic skills, and to the mental attitude and values which young people carry with them for the rest of their lives.

As new members of the Minnesota Coaches "Hall of Fame," you are being recognized by your peers as the "cream of the crop," in coaching in Minnesota. As a "fellow-Johnny", I'm particularly pleased to see Jack Stackpool receive this coveted honor. Each of you are very special people who are most deserving of this high honor.

It's very fitting that Ted Peterson is among this year's "Hall of Fame" inductees. I was an avid reader of Ted's sports-writing and know that he is missed by all those who counted on his colorful, yet fair reporting of high school and other sports over an entire career.

Thanks to each of you for your contributions. And, best of luck to all Minnesota coaches in the future.

Sincerely,

DAVE DURENBERGER,
United States Senator.

[From the West Central Tribune, Aug. 28, 1987]

COACHING GROUP HONORS STACKPOOL

(By Bruce Strand)

GLENWOOD.—Jack Stackpool has always said "yes" to getting involved in projects that promote Minnesota high school basketball.

In recognition, the Minnesota Basketball Coaches Association has said "yes" to Glenwood's nomination of Stackpool to the state coaches Hall of Fame.

Stackpool, 53, a social teacher and athletic director at Glenwood, coaches 25 years at Wabasha, Foley and Glenwood. The association honors only retired coaches.

He'll be inducted Nov. 6 at a banquet in Minneapolis, along with Bill Sellisker of Crosby-Ironton. Walt Williams of Minneapolis Southwest, and the late sportswriter Ted Peterson of Minneapolis and Alexandria.

"It's an excellent honor," said Stackpool. "You always try to do the best you can as you coach, and this is something nice added on by my fellow coaches."

Stackpool held several offices, including president, with the state coaches association. He served as game manager for the first two state high school all-star basketball games. He was district and region representative for many years.

The MBCA's criteria for Hall of Fame selection are: (1) demonstrating a dedication to the highest value of competitive high school basketball, (2) conducting programs in a beneficial way for players, schools, and community, and (3) membership and participation in the MBCA and its parent organization.

This is the fourth year of the Hall of Fame. Twenty-one persons have been inducted. Stackpool is the first from the Tribune area.

Stackpool was nominated by his longtime assistant, Donald Torgerson, and his successor, John Holsten, along with Albany athletic director Pete Herges and Starbuck coach Greg Starns.

"Jack proved himself in many ways as a coach," said Herges, himself a Football Coaches Hall of Fame member. "His teams were always very well prepared, and his ability to adjust to various changes in the game, I think were responsible for conference championships he won at Foley.

"Ethically, he's a person to look up to, one you'd like to have your son play for."

Torgerson cited Stackpool for being "a leader in our district and region . . . He likes to take charge and see that things are done correctly."

Stackpool is a native of Chicago, where he played prep basketball for Johnny Dee, a former Notre Dame standout who would eventually coach at that university. Dee's ex-teammate, Buster Hiller, coached at St. John's and Dee steered Stackpool there.

He played basketball at St. John's, where, ironically, he once guarded co-inductee Sellisker in a game in which the Johnnies ended a long losing streak against Hairline.

After earning his degree at St. John's—a masters in education with emphasis on political science from St. Cloud came later—Stackpool served in the Army for two years before starting his teaching/coaching career.

Stackpool never got into a state tournament, but established winning traditions at all his locations while promoting the sport in those extra-capacities.

Being active is a family trait.

His wife, Mary, teaches a Partners in Agriculture program (for farm wives) at Alexandria Vo-Tech, and ran unsuccessfully for the state senate last year.

Their youngest son, Tom, was the Tribune's 1978 Hengstler-Ranweller Award (top area senior athlete) recipient as a four-sport star. He's now a graduate basketball coaching assistant at University of North Dakota, after coaching at Perham for four years.

Oldest son Mike, a drama standout at Glenwood, now works in a psychiatric hospital in Denver. Another son, Dick, a football/track star at Glenwood, has two college degrees and is involved in the insurance business in Dallas. Daughter Ann, an all-state musician in high school, does social work in Cambridge.

"I guess I'm a proud father," he said after rattling off his offspring's achievements in response to a reporter's question.

He took pride in his coaching, too. In both his kids and his job, it showed.●

HUMAN RIGHTS DAY

THE PERSECUTION OF THE BAHA'IS

● Mr. HEINZ. Mr. President, today we observe Human Rights Day, the 39th anniversary of the signing of the Universal Declaration of Human Rights. Unfortunately, we observe this day more to note the denial of human rights in many places than to celebrate their actual observance around the world.

One place where the denial of basic human rights is expecially disturbing is Iran. In Iran, a religious minority the Baha'is, continue to suffer what can only be called barbaric persecution.

Not long ago the intolerant Islamic government of Iran executed two Baha'is, whose only crime was to profess a faith not allowed under the extreme and distorted version of Islam practiced by the mullahs of Tehran. Now, five more Iranian Baha'is have been arrested, and another 12 already languishing in Iranian prisons are threatened with execution.

Some human rights problems are surrounded with controversy. There is no doubt about the persecution of Iran's Baha'is. It is documented in a recent report by the United Nations Special Representative on human rights, who collected eye-witness accounts of this persecution. The United Nations itself acted on this report, condemning the barbaric Iranian Government behavior towards the Baha'is in a resolution passed last month.

There is no doubt about the persecution of Iranian Baha'is—the only question is whether we will continue to speak out and demand that the barbarism come to an end.

Each time I have spoken out on the repugnant official Iranian abuse of the Baha'i community, I have noted that this persecution runs counter to the spirit and traditions of Islam. Islam is not a religion of intolerance, of persecution, of attacks on loyal and peaceful groups who are outstanding members of the community. This is a perversion of Islam. It is an unconscionable violation of universally recognized human rights.

On Human Rights Day, let us remember a minority that suffers in a remote place, away from the spotlight of international publicity. The Baha'is of Iran suffer for their faith. We must make their faith in our vigilance, our concern, a well-founded one by never letting their plight slip from the agenda of the world's urgent humanitarian issues.●

CONCERNED CITIZENS FOR DEMOCRACY

● Mr. HUMPHREY. Mr. President, this Saturday the organization "Concerned Citizens for Democracy" is hosting a luncheon in Miami in honor of freedom fighters around the world.

This is a very timely meeting. There has been a great deal of euphoria and hoopla surrounding the summit conference that has blurred our perception of the true nature of Soviet communism. This meeting will provide a badly needed forum for those fighting for freedom to put the events of the past couple days into perspective.

Freedom fighters in countries such as Afghanistan, Cuba, Nicaragua, Angola, Mozambique, Ethiopia, Eastern Europe, and the Soviet Union know the other side of Mikhail Gorbachev's smile. Freedom fighters and their representatives have converged upon Washington in recent days, to remind us that despite the smiles and optimism of recent days, millions of people continue to suffer under the yoke of communism.

In Afghanistan, 120,000 Soviet troops continue to wage genocide against an innocent civilian population. Soviet aggression against that nation is directly responsible for creating the largest refugee population in the world. A new report on human rights in Afghanistan, financed by the Government of France, estimates that 1.24 million Afghans have died as a result of direct Soviet aggression in Afghanistan. That's 9 percent of the population. That's equivalent to more than 20 million dead Americans. There has been much talk in recent days about how Mr. Gorbachev is trying to "withdraw" from Afghanistan. The facts however show that Soviet aggression against the Afghans and neighboring Pakistan has increased since Mr. Gorbachev came to power rather than decreased.

Afghanistan is but one brutal example, Mr. President. Much closer to home, we can point to aggression in Nicaragua and Cuba. I salute "concerned citizens for democracy" for focusing their attention on the plight of the "captive nations" of the world. President Reagan appropriately honored Carlos Perez, the chairman of "Concerned Citizens for Democracy" in his 1984 State of the Union address. As a victim of Castro's oppression in Cuba, Carlos understands the dangers in trusting Communist protestations of "peace" and "goodwill." Actions speak for themselves.

Despite the media portrayal of the Soviet system and the Soviet leader as moral equivalents of American democracy and the president of that democracy, the fact remains there is a very fundamental difference between them. The ethical basis of our system is the consent of the governed. The ethical

basis of communism is deceit, force, and terror. That difference remains, despite Mr. Gorbachev's smile, and we will be faithful to the birthright of our children if we keep it firmly in mind.

Mr. President, I commend, "Concerned Citizens for Democracy" on the occasion of their important meeting on Saturday.●

FRAUD OF THE DAY—PART 21

● Mr. HEINZ. Mr. President, since September I have been bringing to the Senate's attention a growing list of cases of customs fraud which demonstrate the need for legislation like the Senate amendment creating a private right of action against customs fraud to combat this illegal activity.

Today I want to discuss one of the most serious frauds of all—the fraud being perpetrated by the opponents of the Senate amendment in the form of irrational scare stories about it.

Several weeks ago as part of my series on customs fraud, I discussed—and disposed of—the concern that a private right of action would be used to bring frivolous claims for the purpose of harassing innocent parties. I responded to that scare story by describing in some detail how the Federal courts are now effectively dealing with frivolous lawsuits by imposing sanctions pursuant to rule 11 of the Federal Rules of Civil Procedure.

Today more than ever, thanks to the changes made in the 1983 amendments to rule 11, there is no doubt that it provides a comprehensive and effective method of policing litigation in the Federal courts.

Today I want to point out that the States have understood the usefulness of rule 11 even if those who oppose the Senate amendment have not. While rule 11 does not apply to actions brought in State courts, and, of course, the Senate amendment does not affect State courts since actions under it could only be brought in the Court of International Trade, the States have recognized the potential of frivolous lawsuits in a variety of areas aside from customs fraud and have enacted legislation similar to rule 11. This year alone a cursory survey reveals that at least 11 State legislatures have introduced and approved bills to deal with frivolous litigation. These States include: Alabama, Arkansas, Colorado, Connecticut, Idaho, Nebraska, North Dakota, Ohio, Texas, Virginia, and Washington.

What has impressed me most of all about these bills, Mr. President, is the degree to which they resemble Federal rule 11. The statute enacted in the State of Virginia, for example, reads almost verbatim like its Federal counterpart. Virtually every State that has acted has included a provision awarding costs and attorney fees for bringing a claim which lacks a basis in fact or law. The similarity to the Federal approach is more than coincidence. It stands as a convincing testimonial of the soundness and effectiveness of rule 11 and the ability of the courts to deal with sham lawsuits.

In conclusion, I hope that all my colleagues will support the customs fraud amendment and will not allow themselves to be sidetracked by irrelevant and fraudulent arguments against it from those who simply have little interest in doing anything about the fraud problem. It would be a terrible mistake not to enact this amendment because of an ill-founded concern over frivolous or harassing claims.●

NOMINATION OF ANN DORE McLAUGHLIN

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order as in executive session to order the yeas and nays on the nomination of Ann Dore McLaughlin, of the District of Columbia, to be Secretary of Labor.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. BYRD. Mr. President I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I have discussed this request with the distinguished Republican leader.

Mr. President, I ask unanimous consent that at the hour of 9:15 tomorrow, the Senate go into executive session; that there be 15 minutes of debate on the nomination of Ann Dore McLaughlin to be Secretary of the Department of Labor; that time for debate be equally divided between Mr. KENNEDY and Mr. HATCH; that at the hour of 9:30 a.m., the Senate proceeded to vote on the nomination; that that vote, which has been ordered to be a rollcall vote, be a 30-minute rollcall vote; that the call for the regular order occur at the hour of 10 a.m.; that upon the disposition of the nomination, the motion to reconsider be laid on the table; that the President be notified of the confirmation of the nomination; and that the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the prayer by the Chaplain, there be a period for morning business to extend until the hour of 9:15 a.m., and that Senators may speak during the period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ORDER FOR RECOGNITION OF THE TWO LEADERS

Mr. BYRD. Mr. President, both the majority leader and the minority leader will be at the White House when the Senate convenes at 9 a.m. I therefore ask unanimous consent that the order for the recognition of the two leaders under the standing order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE CONTINUING RESOLUTION, HOUSE JOINT RESOLUTION 395

Mr. BYRD. Mr. President, I ask unanimous consent—and this, of course, is not being done without the knowledge of the Republican leader—that upon the return to legislative session under the order, following the disposition in executive session of the nomination aforementioned, the Senate proceed to the consideration of Calendar Order No. 465, House Joint Resolution 395, the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order entered, that the Senate stand in recess until the hour of 9 o'clock this morning.

The motion was agreed to; and at 12:12 a.m. the Senate recessed until Friday, December 11, 1987, at 9 a.m.